

20 JANUARY 1948

I N D E X

Of

EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
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3150-278		3791	The SAIONJI-HARADA Memoirs	37742	
3150-278A		3791-A	Excerpt therefrom - Chapter 278 (pp. 2148-9)		37743
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3150-281A		3792-A	Excerpt therefrom - Chapter 281 (14 July 1938)		37746
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3150-280		3794	The SAIONJI-HARADA Memoirs	37760	
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3150-317		3797	The SAIONJI-HARADA Memoirs	37772	
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3150-322		3799	The SAIONJI-HARADA Memoirs	37789	
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3150-323		3800	The SAIONJI-HARADA Memoirs	37808	
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3150-324		3801	The SAIONJI-HARADA Memoirs	37811	
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1 Tuesday, 20 January 1948

2 - - -

3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10 Appearances:

11 For the Tribunal, all Members sitting, with
12 the exception of: HONORABLE JUSTICE JU-AO MEI, Member
13 from the Republic of China, not sitting from 0930 to
14 1600.

15 For the Prosecution Section, same as before.

16 For the Defense Section, same as before.

17 - - -

18 (English to Japanese and Japanese
19 to English interpretation was made by the
20 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All of the accused are present
4 except SHIRATORI who is represented by counsel. The
5 prison surgeon at Sugamo certified that he is ill and
6 unable to attend the trial today. The certificate will
7 be recorded and filed.

8 Captain Kraft.

9 LANGUAGE ARBITER (Captain Kraft): If the Tri-
10 bunal please, the following language correction is
11 submitted: Exhibit No. 3775-A, last line, delete,
12 "There will be a crisis," and substitute, "It cannot be
13 said that this is not a crisis."

14 THE PRESIDENT: Mr. Comyns Carr.

15 MR. COMYNS CARR: May it please the Tribunal, I
16 will now read exhibit 3789-A:

17 "4-17 January 1938

18 "When I called on the Foreign Minister on the
19 14th, he said that in short, at the Council held in the
20 presence of His Majesty, the Premier was charged with
21 expediting the proceedings whereas he (the Foreign
22 Minister) was called on to do the explaining; that after
23 he first described the progress of our foreign policy
24 as well as our future peace and war policies at the
25 Council, His Highness, Prince KAMIN, the Chief of the

1 Army General Staff, and His Highness, Prince FUSHIMI, the
2 Chief of the Naval General Staff, followed by giving their
3 approval to the proposals that were decided by the
4 government; that the President of the Privy Council,
5 HIRANUMA, expressed himself to the effect that he also
6 approved; that at any rate, all decisions passed without
7 objections were reported to His Majesty; and that after
8 the closing address was made to the Emperor, the Emperor
9 left the hall.

10 "I then met the Lord Keeper of the Privy Seal
11 and discussed various matters which had come up sub-
12 sequently. The Lord Keeper of the Privy Seal also talked
13 about the details of the Council which was held in the
14 presence of His Imperial Majesty."

15 This copy, sirs, should be the 5th, not the 15th.

16 (Reading continued)

17 "On the 5th, at the General Staff Headquarters,
18 China was requested, through the Foreign Minister, to
19 give an answer by the 15th as to whether or not she
20 accepted or disapproved of the terms of peace proposed
21 by Japan. This being the day the answer was to arrive,
22 it was the fervent desire of the General Staff Head-
23 quarters to settle the matter on this occasion though
24 it may be distasteful by waiting five additional days
25 even in the event the answer was rejected. A liaison

conference was convened at the official residence of the
1 Premier and from the morning of the 15th, the attendance
2 of both His Imperial Highness, the Chief of the Army
3 General Staff, and His Imperial Highness, the Chief of
4 the Naval General Staff, was requested. The conference
5 lasted from 9:30 a.m. until 8:30 p.m. of the same day.

6 "According to the details of the conference which
7 I received from Premier KONOYE, the Army General Staff
8 Headquarters was out and out in favor of ending the
9 hostilities with China even if only a day sooner and of
10 making preparations against the Soviet, and this was its
11 greatest desire and concern. As for the Deputy Chief of
12 the General Staff, he stated: 'Even if it is said to be
13 a council held in the presence of the Emperor, the Emperor
14 does not make any comments. Since this is very similar to
15 the Emperor Organ Theory, this time I should like to
16 have matters submitted to His Imperial Majesty's judg-
17 ment before a decision is made.' So saying, he /Deputy
18 Chief of the General Staff/ reversed from the very basis,
19 everything that had been settled up until now. Moreover,
20 it seemed that it was his desire to deal with Chiang
21 Kai-shek in person and come to a peaceful settlement.
22 The reply already received from the Chief of China's
23 Foreign Affairs Bureau through the German Ambassador was
24 to the effect that the terms submitted through the
25

1 German Ambassador by Japan were too abstract in content
2 and therefore difficult to comprehend, and requested that
3 a more concrete proposal be presented.

4 "The Foreign Minister said, 'The Army General
5 Staff Headquarters has already informed China through
6 the German Military Attache. At any rate /China/, is
7 generally well aware of our concrete proposals. In spite
8 of this, however, she feigns ignorance and is saying,
9 "that cannot be understood." If this is the case,
10 there is no hope. Therefore, as has been determined at
11 the Council held before the Emperor, there is no alter-
12 native but to proceed with our alternate plan. This is
13 to transfer the present hostilities into a long-term
14 warfare. It is vital that we strengthen our determin-
15 ation to oppose China stubbornly.' The foregoing was
16 the contention of the Foreign Minister. The Premier
17 and his Cabinet members were of the opinion that 'it
18 is not good to be led on and on.' In the end, the same
19 arguments were being repeated but Navy Minister YONAI
20 spoke up and said, 'Does that mean that the Army General
21 Staff Headquarters does not have confidence in the
22 Government? If so, it means that either the Army
23 General Staff Headquarters or the Cabinet must resign en
24 masse as a result of opposition between the two. How-
25 ever . . . ' There was a recess about 7:00 o'clock. The

1 Army General Staff retired to the General Staff
2 Headquarters and, after a consultation there, returned
3 again to the official residence of the Premier at
4 8:00 o'clock. The Deputy Chief of the General Staff
5 remarked, 'To have a change in the government at the
6 present time is not wise. The General Staff Head-
7 quarters has confidence in the Government and will
8 concur with the decision it makes.' Therefore, soon
9 after 8 o'clock, the debate was settled. The Cabinet
10 meeting was again convened and at 8:30 p.m., after
11 the meeting had ended, the Premier called at the Palace
12 and withdrew from the presence of the Emperor after
13 making a complete report of the proceedings to the
14 Emperor. . .

15 "Both Prince KONOYE and KIDO were saying,
16 'The Army General Staff is justified in their ardent
17 desire to have out and out peace. However, after
18 causing matters to develop this far, to stop midway
19 and be led by them and say "how would it be to conclude
20 peace under these terms," by taking an attitude very
21 similar to that of a defeated nation and purposely
22 showing our magnanimity is not an attitude to be
23 taken by a country which has been winning consecutive
24 victories. Should such an action be taken, it would,
25 after all, be said, "Japan has weakened considerably

and is she not already in a precarious situation."

1 In this way, her cards would be revealed. Because of
2 this, externally, it would mean a sudden fall of the
3 yen exchange and depreciation of government securities
4 and we would not be able to carry on commerce and would
5 make the buying of commodities impossible. What are
6 we to do should there be a panic? Nevertheless, if we
7 are going to settle matters, it should be settled
8 logically. This is a difficult situation.'

10 "Moreover, according to KIDO's conversation
11 on or about the evening of the 12th, 'Two or three
12 days ago, since Prince CHICHIBU said, "come over by
13 all means," I called on him at his palace. Prince
14 CHICHIBU, with opinions which made it appear as
15 though he was representing the Army General Staff,
16 questioned me in the following manner, "On what
17 grounds is the Government refraining from concluding
18 the present hostilities even a day sooner? How much
19 longer do they think Japan's financial strength will
20 last?" To the above question, I explained the circum-
21 stances at length. I discussed various situations
22 with His Highness from 8:30 till after 10:00 o'clock.
23 In the course of the conversation, Prince CHICHIBU
24 remarked, "The present hostilities differ from that
25 of the Sino-Japanese and the Russo-Japanese War in

1 that we are not waging war against the people but
2 against the Chiang Kai-shek regime. Therefore, could
3 it not be done by eliminating all friction to date and
4 clasping hands from a broad standpoint?" To this I
5 replied, "Even if the present situation differs from
6 the Sino-Japanese and the Russo-Japanese war, after
7 Japanese troops have killed 700,000 to 800,000 soldiers
8 of the Chinese Army, even if we look grave and say,
9 'Let us shake hands,' it cannot be clasped sincerely.
10 Furthermore, is Japan a defeated nation or a victorious
11 nation. For a victorious nation to say, 'We, by all
12 means, would like to make peace as soon as possible,'
13 and submit various terms and lay our cards on the
14 table would, on the contrary, be used as propaganda if
15 our opponent should refuse to respond to this. If they
16 say, 'Japan's internal condition is in such a diffi-
17 cult situation. With these terms, Japan has expressed
18 hopes for peace,' and spread such propaganda at home
19 and abroad, it would result in Japan being put at a
20 great disadvantage. For example, this would cause a
21 so-called slump in the yen exchange and government
22 securities as well as a loss of confidence in /Japan's/
23 economy and finance. If we are to pursue this course
24 further, it would also result in the nation not being
25 able to purchase any commodities and prices of goods

1 will soar and there would be fear that internal
2 administration would be thrown into confusion.
3 Diplomacy is, of course, necessary to establish peace,
4 but unless the settlement is made very firm, and if
5 things are immediately handled in the manner the
6 General Staff Headquarters desires, I shall have no
7 end of worry for the nation." To this, His Highness
8 said, "What you say is true. Nevertheless, I think
9 the government is incompetent." With this, we
10 parted.'

11 "I left for Okitsu on the evening of the
12 17th and when I spoke to the Foreign Minister by
13 phone on the morning of the 18th, he said, 'As the
14 Chinese Government failed to accept the proposal,
15 the Council held in the presence of the Emperor has
16 decided on the alternative plan. . .'"
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1 MR. LOGAN: If the Tribunal please, may all
2 of page 3 be referred to the Language Section?

3 MR. COMYNS CARR: Your Honor, may I again
4 say that referring whole pieces to the Language Section,
5 Language Arbitration Board, as I understand, puts upon
6 them an impossible task. It is for those who desire
7 to make a correction to specify what the correction is
8 that they wish to make.

9 MR. LOGAN: It is my recollection, if the
10 Tribunal please, that at one time we were directed
11 not to submit our changes, just to refer the particular
12 item to the Language Board and have them change it.
13 We were instructed not to submit our interpretation
14 of the document.

15 THE PRESIDENT: You would not reveal your
16 view to the Language Section if you simply referred
17 to words or sentences.

18 MR. LOGAN: But this entire Memoir, if the
19 Tribunal please, is translated so wrong it is almost
20 a physical impossibility to point out any one particular
21 sentence because it has to be referred to by pages and
22 paragraphs. The entire sense of the entire document
23 is changed.

24 THE PRESIDENT: We may refer this whole page
25 just to see what happens and be guided by the result

1 in the future. In that way we would not waste much
2 of the Language Board's time.

3 MR. LOGAN: If the Tribunal please, I would
4 also make another suggestion: that when changes are
5 made in these Memoirs, that new sheets be substituted
6 in the transcript instead of having the changes tucked
7 away and disconnected from the original document as
8 read, because in our summation there will have to be
9 two references, one to the original transcript where
10 it appears and one to the subsequent correction, and
11 it makes it almost impossible to try to jibe the two
12 together.

13 THE PRESIDENT: We will consider that, but
14 it may prevent the transcript from being a true record
15 of the proceedings.

16 MR. LOGAN: I am speaking from experience
17 with KIDO's Diary, and I must say it was very trouble-
18 some and entailed a great deal of work doing it the
19 other way.

20 THE PRESIDENT: KIDO's Diary was not well
21 translated in the first instance, so we are told. We
22 only know what we are told in these matters, but we are
23 told that this diary was most carefully translated.
24

25 MR. COMYNS CARR: And these excerpts have
been, all of them, carefully checked a second time and

altered where necessary. I should like to say that
1 I am unaware of any such instruction ever having been
2 issued as stated by my friend, Mr. Logan. On the
3 contrary, the rule has always been that the objector
4 must bring in his specific objections. With regard
5 to the corrections not appearing in the original
6 exhibit, I have every exhibit corrected on the original
7 exhibit copy itself as soon as the corrections appear,
8 and I trust that everybody else is doing the same.

9 MR. FURNESS: If your Honor please, in regard
10 to the translation, it is our understanding that even
11 in the original Japanese, this Memoir, even with its
12 many revisions, is almost impossible to understand.
13 I am told by my Japanese colleagues that it should,
14 in fact, be translated into Japanese before any attempt
15 is made to translate it into English. I am told that
16 if it comes out clearly in the translation, it cannot
17 be an accurate translation because then it is the
18 translator testifying and not Baron HARADA.

19 THE PRESIDENT: The existence of our Language
20 Board makes all these allegations unnecessary. If there
21 is anything wrong in the opinion of the defense with
22 any particular statement in any particular document,
23 we will refer it to the Language Section. These general
24 statements are wasting time and getting us nowhere.
25

1 The correction made this morning by Captain
2 Kraft is an important one, in my judgment; but it does
3 not help the defense, strangely enough, unless I mis-
4 interpret the document. If a word or a sentence is
5 challenged by any defense counsel, we will refer it;
6 but we do object to referring whole pages or whole
7 documents.

8 MR. FURNESS: I make the statement merely to
9 explain why we make the request to refer entire pages,
10 because of the great difficulty of the translation.

11 MR. WARREN: Your Honor, with relation to
12 referring these matters to our Arbitration Section,
13 Mr. Carr just made the remark that the ordinary thing
14 to do was to give our suggestions to the Board. However,
15 I recall distinctly doing that in the courtroom one
16 time and incurring your Honor's displeasure, and you
17 spoke to me about it very strongly when he--

18 THE PRESIDENT: I recall interfering on one
19 occasion where I think a defense counsel told the
20 translator what the language should be.

21 MR. WARREN: That was me, your Honor. I was
22 doing exactly as he says the custom should be and I
23 insist it is not correct. I don't know what to do now.

24 THE PRESIDENT: We have heard enough, Mr. Comyns
25 Carr. We refer the whole of page three. We will see

what happens.

1 MR. McMANUS: Your Honor, in so far as your
2 Honor has referred to the correction made by Captain
3 Kraft this morning, may I just ask your Honor, or at
4 least point out to the Court that the sentence in
5 Japanese concerning this particular sentence of
6 exhibit 3775-A contains a double negative.

7 THE PRESIDENT: It is a common form of
8 expression, grammatically correct. We do not mis-
9 understand it.

10 MR. McMANUS: But because of this, your Honor,
11 I understand it is very difficult to translate so,
12 consequently, I ask the Court, just for this one point,
13 to have it resubmitted to determine whether this is
14 in the present tense or the future tense. In view of
15 the few sentences before it, as it reads as corrected
16 by the Language Section, your Honor can readily see
17 that it does not make sense.

18 THE PRESIDENT: If Captain Kraft cares to
19 reply to you, Mr. McManus, he is at liberty to do so.

20 MR. McMANUS: Your Honor, all I request is
21 that it be resubmitted to determine whether it be in
22 the present or future tense.

23 THE PRESIDENT: Captain Kraft.

24 LANGUAGE ARBITER (Captain Kraft): Sir, in
25

1 regard to the tense of this expression, we discussed
2 the matter quite at length and found in a previous
3 sentence the time referred to was today, and for that
4 reason we translated it to be in the present tense.
5 In the sentence itself it is difficult to determine
6 what is meant. You have to take it from the context,
7 the entire context.

8 THE PRESIDENT: That is a feature of the
9 Japanese language, I understand. It is not something
10 new.

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1 MR. McMANUS: Your Honor, the crux of the
2 entire discussion was whether or not there would be a
3 crisis in 1935 or 1936 which was sometime in the future.

4 THE PRESIDENT: Put it in your summation.

5 MR. COMYNS CARR: I now offer in evidence IPS
6 document 3150-263A, also of 14 January 1938, relating
7 to KIDO's attitude with regard to the Imperial Uni-
8 versity, which was put to him at pages 31,508 to 9.

9 THE PRESIDENT: Mr. Logan.

10 MR. LOGAN: If the Tribunal please, the second
11 sentence of this document, commencing "IDA Bannon" and
12 ending "awkward position," is nothing but an opinion
13 and conclusion on the part of HARADA and whoever edited
14 the document and should be disallowed as was Grew's
15 opinions in his diary.

16 The third from the last sentence, commencing
17 "For my part" and ending with the word "the Cabinet"
18 with a question mark after it, two sentences there
19 should also be disregarded and not permitted to be read
20 as it is also an opinion and conclusion on the part
21 of the witness HARADA. The accused KIDO was confronted
22 with this document and at first it was presented to
23 him as having been stated on the 14th of January, 1938.
24 Subsequently the prosecutor said that that might have
25 been February sometime. This chapter 263 from SCAP's

1 translation is dated February 1, 1938. The accused
2 KIDO testified that the --

3 THE PRESIDENT: None of us can see what bear-
4 ing this has on any issue, what importance it has. Not
5 what you are saying but what is in the document.

6 MR. LOCAN: I don't see what bearing it has
7 either, if the Tribunal please, in view of a subsequent
8 document that they intend to offer showing that KIDO
9 was opposing the Rightists.

10 THE PRESIDENT: By a majority the objection
11 is upheld and the document rejected.

12 MR. COMYNS CARR: In view of the last decision
13 of the Tribunal I will not offer the next document.

14 I now offer in evidence IPS document No.
15 3150-264A, relating to 26 January 1938, a statement by
16 KIDO to HARADA showing the interest he was taking in
17 measures relating to the general preparation for war
18 unconnected with his own department which was put to
19 him at page 31,510.

20 THE PRESIDENT: Mr. Logan.

21 MR. LOGAN: With respect to this, if the
22 Tribunal please, this choice little sentence taken
23 out of its context might tend to indicate, as the
24 prosecutor pointed out, that this was his personal
25 opinion and demonstrates what he was trying to do. But

1 if the document as a whole is read it will be seen
2 that there was a discussion between HARADA and KONOYE
3 at one time, KIDO at another time, and several other
4 people, and the subject matter --

5 THE PRESIDENT: You need not go any further
6 By a majority the objection is upheld and
7 the document rejected.

8 MR. COMYNS CARR: I now offer in evidence IPS
9 document 3150-264B, of the 14th of February 1938, being
10 the witness HORINOUCI's account of a Liaison Conference
11 of that date and an interview between the Chiefs of
12 Staff and the Emperor which was denied by him at pages
13 29,870-71. Another document relating to the same
14 matter to substantially the same effect was admitted
15 by the Tribunal on Friday last and is exhibit 3272 but
16 I desire to submit this document to impeach the credit
17 of the witness HORINOUCI who denied that he ever said
18 what he is stated here to have said.

19 THE PRESIDENT: No objection?

20 Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution document
22 3150-264 will receive exhibit No. 3790 for identifica-
23 tion only; the excerpt therefrom, being prosecution
24 document 3150-264B will receive exhibit No. 3790-A.

25 (Whereupon, the document above

referred to was marked prosecution exhibit
No. 3790 for identification, the excerpt
therefrom being marked prosecution exhibit
No. 3790-A and received in evidence.)

MR. COMYNS CARR: (Reading) "14 February 1938

"I saw the Vice Foreign Minister at the Foreign
Ministry and he inquired: 'Have you heard about the
Liaison Conference of February 14th?' Therefore, I
(HARADA) replied: 'What about it?' To this, the
Vice Minister stated: 'At the Liaison Conference of
February 14, the Army said: 'It is impossible to attack
Canton and Hankow in the future. We shall go as far
as the southern part of Shansi and up to the Yellow
River but we think it is impossible to advance as far
as Suchow.'" The Navy is saying that it would like
to advance its air base as far as Anking, but the Army
is saying that it is impossible to go that far. The
reason why they say it is impossible to carry out mil-
itary operations as far as Anking lies in the fact
that military preparations must be made against Russia.
As a result the Navy is saying: "It is not wise to
continue as we are and extending the incident into
one of long term hostilities. On one hand, cessation
of war should be attempted through diplomatic manoeuvres
and at the same time, our forces must advance without

yielding an inch." The foregoing is the Navy's stand and they say: "Can Canton be attacked? What about Hankow, Suchow and Inking?" Even in that event, nothing can be done. The reason is due to military preparations against Russia. Therefore, the Navy requested the Chief of the Naval General Staff to inquire of the Chief of the Army General Staff: "The Army repeatedly speaks of the Soviet relationship, but are we not intending to (against Russia) force it from our side?" Prince KAN-IN denied the foregoing saying: "There is no such thing."

"His Majesty, the Emperor, then asked the Minister of War /"Is it possible to put into effect a simultaneous plan for long term hostilities, military preparations against Russia and the expansion of the Navy/?" The Army Minister replied: "I shall discuss the matter with the Government and take the proper action.""

THE PRESIDENT: Major Blakeney.

MR. BLAKENEY: After reading the document I think it is proper to inquire whether the entire language of the Emperor in the second paragraph is conjectural, as is indicated by the diagonal marks,

MR. COMYNS CARR: The answer is again, I regret to say, that according to my information those

1 diagonal marks should not be there. There seem to be
2 a number of obvious errors with regard to these
3 diagonal marks.

4 I offer in evidence IPS document 3150-277A
5 relating to 29 May 1938 and to a conversation between
6 Baron HARADA and Foreign Minister UGAKI in which UGAKI
7 spoke of attempts to influence him to appoint
8 SHIRATORI as Vice Foreign Minister.

9 This document is offered to contradict wit-
10 ness UGAKI's statement on cross-examination at page
11 34,915 that no one other than Prince KONOYE had
12 approached him regarding the appointment of SHIRATORI.

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THE PRESIDENT: Major Furness.

1 MR. FURNESS: If the Court please, we object
2 to the introduction of this document on the ground that
3 it is an attempt to impeach the evidence of Baron --
4 General UGAKI who appeared as a witness for the prose-
5 cution. The prosecutor has called attention to his
6 testimony when he was appearing for the defense but
7 failed to call attention to the fact that he testified
8 very early in the case for the prosecution. Furthermore,
9 we cannot see how this document proves or disproves
10 anything of any importance.
11

12 THE PRESIDENT: Mr. Comyns Carr.

13 MR. COMYNS CARR: Your Honor, in my submission
14 the fact, if it be a fact, as to which I am not sure,
15 that UGAKI was at some time called as a witness for the
16 prosecution doesn't interfere with our right either to
17 impeach or to correct his testimony when he is called
18 as a witness for the defense.

19 MR. FURNESS: I can assure the Tribunal that
20 I am not misleading them in stating that he did appear
21 as a witness for the prosecution.

22 I also believe that it is not good law to
23 state that they can impeach him because we call him
24 as a witness on any testimony he gives before this
25 Tribunal.

MR. COMYNS CARR: Your Honor --

1 THE PRESIDENT: Do you wish to say anything,
2 Mr. Carr?

3 MR. COMYNS CARR: Your Honor, with regard
4 to the question of the importance of the matter --

5 THE PRESIDENT: That is the only question we
6 want you to address us on.

7 MR. COMYNS CARR: The next document I am going
8 to offer is perhaps a better one from that point of
9 view on the same question because it shows his co-
10 defendant ITAGAKI as pressing for his appointment, and
11 that was put to and specifically denied by UGAKI. I
12 think perhaps I will withdraw this one and raise the
13 point on the next one.

14 I offer in evidence IPS document 3150-278A
15 relating to 16 June 1938 and to Prince KONOYE's conver-
16 sation with Baron HARADA in which he told of the in-
17 sistence of War Minister ITAGAKI in recommending to
18 Foreign Minister UGAKI that SHIMATORI be appointed
19 Vice Foreign Minister.

20 This is offered to contradict the statement
21 of witness UGAKI on cross-examination at page 34,915
22 that no one other than Prince KONOYE had approached him
23 regarding the appointment of SHIMATORI, and further to
24 contradict witness UGAKI's specific denial at page
25

1 34,916 that War Minister ITAGAKI was persistent in
2 pressing for the appointment of SHIMOTORI as Vice Foreign
3 Minister.

4 THE PRESIDENT: Mr. Caudle.

5 MR. CAUDLE: I would like to object to this
6 because Mr. UGAKI was formerly a prosecution witness
7 too, and they are trying to impeach him here now.

8 THE PRESIDENT: Do you want to be heard, Mr.
9 Carr?

10 MR. COMYNS CARR: Your Honor, this isn't
11 merely a matter of impeaching, it is correcting his
12 evidence on a matter which we submit is of importance
13 in itself as showing the connection and mutual support
14 between these two persons both of whom we allege to
15 be conspirators.

16 MR. CAUDLE: If it please the Tribunal, I
17 cannot see the difference between correcting and im-
18 peaching.

19 THE PRESIDENT: You don't need to reply. We
20 thoroughly understand your objection. Now we are reading
21 the document with a view to seeing whether it is sound.

22 By a majority the objection is overruled and
23 the document admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution document
25 3150-278 will receive exhibit No. 3791 for identification

only; the excerpt therefrom, being prosecution document 3150-2784, will receive exhibit No. 3791-A.

(Whereupon, the document above referred to was marked prosecution exhibit No. 3791 for identification, the excerpt therefrom being marked prosecution exhibit No. 3791-A and received in evidence.)

MR. COMYNS CARR: (Reading) "16 June 1938.

"That afternoon I (HARADA) met KONOYE at the Premier's official residence. He said: 'This noon Foreign Minister UGAKI, Finance Minister IKEDA and I held a so-called Three Ministers' Meeting while we had lunch. War Minister ITAGAKI persisted in recommending SHIRATORI as Vice Minister of Foreign Affairs to UGAKI.' When ITAGAKI was at the front and SHIRATORI was touring through North and Central China, they talked for about four hours on various matters. It is said their opinions on foreign relations coincided very well. The ones who are still the greatest nuisance to UGAKI at present are the field grade officers of the Army. If UGAKI wants to carry out some foreign policy matter, he will have to hold them down and yet let it appear that he is cooperating with them. Otherwise, he won't be able to accomplish anything. SHIRATORI is not considered highly by his seniors in the Foreign Ministry,

1 and his reputation outside of the Ministry is somewhat
2 bad. However, if UGAKI were to use him, he would prob-
3 ably handle him appropriately. I think that using
4 SHIRATORI would be very good politically. However, the
5 Navy is wholly opposed to him. Vice Minister YAMAMOTO
6 especially says that in view of SHIRATORI's personal
7 conduct: 'We cannot keep such a man for official dis-
8 ciplinary reasons.' However, can't something be done
9 on this occasion without saying such straitlaced things?
10 I will not assume any responsibility in forcibly recom-
11 mending SHIRATORI. However, in reality, I still think
12 that SHIRATORI would probably be the best suited person.
13 UGAKI told me today: 'I have heard that SHIRATORI is
14 to some extent very "loose" with his finances. If he's
15 acceptable to the Army, he isn't to the Navy. This is
16 really an awkward situation.'"

17 Next I offer in evidence IPS document 3150-
18 280A relating to a conversation between Premier KONOYE
19 and HAKADA on 30 June 1938. The accused OKA on cross-
20 examination at pages 33,464 and 33,464 of the transcript
21 admitted that he attended weekly meetings with a certain
22 KISHI and KAGESA but specifically denied any knowledge
23 that KISHI called these gatherings the meeting of the
24 Three Ministers and that KISHI stated that he would
25 bring over a certain Kao Tsung-wu from China and confine

1 him in the Army Club. OKA on direct examination at
2 page 33,423 denied that he ever participated in groups
3 or parties. The prosecution offers this document in
4 evidence in contradiction of the above testimony of
5 OKA.

6 Mr. ONO: My name is ONO. I am counsel for
7 the accused OKA. Now, I object to the introduction of
8 this document on the ground that it has no probative
9 value and importance; it contains nothing but hearsay
10 and opinion. Commenting on that, if it shows anything
11 it shows no conspiracy. This document does not impeach
12 OKA at all.

13 THE PRESIDENT: By a majority the objection is
14 sustained and the document rejected.
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1 MR. COMYNS CARR: I offer in evidence
2 IPS document 3150-281A, in contradiction of ITAGAKI's
3 testimony, page 30,423, line 1, to page 30,425, line
4 6, in which he denied that it was the policy that
5 Japan should concentrate its total national power
6 for the destruction or the surrender of the Chinese
7 Government and in which he denied that it was the
8 Japanese view to bring about Chiang Kai-shek's fall.

9 THE PRESIDENT: Mr. Mattice.

10 MR. MATTICE: On behalf of the accused
11 ITAGAKI, the introduction of this document is
12 objected to for the reason that it is of practically
13 no probative value. It is based on hearsay and
14 opinion of the writer of this so-called memoir.

15 THE PRESIDENT: By a majority the objec-
16 tion is overruled and the document admitted on the
17 usual terms.

18 CLERK OF THE COURT: Prosecution document
19 3150-281 will receive exhibit No. 3792 for identifi-
20 cation only. The excerpt therefrom, being prosecution
21 document No. 3150-281A, will receive exhibit No.
22 3792A.

23 (Whereupon, prosecution document
24 No. 3150-281 was marked prosecution exhibit
25 No. 3792 for identification; and the excerpt

therefrom, bearing document No. 3150-281A,
was marked prosecution exhibit No. 3792A and
received in evidence.)

MR. COMYNS CARR: (Reading)

"Then on the morning of the 5th" -- that
is, as the Tribunal will see from the heading,
July 1938 -- "I called at the residence of the
Lord Keeper of the Privy Seal and chatted with him
for about an hour. The Lord Keeper of the Privy
Seal stated: 'Yesterday, the Emperor summoned the
War Minister, and then the Chief of the General Staff
and stated: 'I think this war should be ended as
soon as possible. What do you think?' The War
Minister and the Chief of the General Staff both
replied simply: 'We will continue until Chiang Kai-
shek fails.' The Emperor was quite concerned about
this matter because the Chief and the Vice-Chief of
the General Staff had previously told the Emperor
that the Chief of the General Staff and the General
Staff Headquarters had feverishly 'wanted to stop
this war. And in short, make preparations against
Soviet Russia.' Since then, nothing has happened.
Therefore, the Emperor thinking that the Chief of the
General Staff at least had in mind to settle the
incident as soon as possible, put the question with

1 that belief, to the Chief of the General Staff and to
2 the War Minister."

3 "Then wishing to impart this matter to the
4 Vice Minister of the Navy, I went to the official
5 residence of the Naval Minister, and met the Vice-
6 Minister of the Navy. Vice-Minister YAMAMOTO said:
7 "It seemed as if Aide-de-Camp HIRATA was here just
8 now, but I did not meet him. Probably he came on
9 some such matter. However, though the War Minister
10 said: 'We will continue until Chiang Kai-shek
11 fails' so-called 'We will fight it out,' in reality
12 it is the army which is most troubled. Conse-
13 quently, it is also the army that desires most
14 earnestly to quit. Therefore, there is no doubt
15 about that point.'"

16 I now offer in evidence IPS document
17 3150-283A. ITAGAKI testified that he did not know
18 that the Kwantung Army had made an estimate of the
19 situation at Changkufeng to the effect that the
20 Soviet forces must be compelled to withdraw from
21 Changkufeng and that the use of force would be
22 necessary. In this connection he also denied that he
23 and the Chief of the General Staff sought an Imperial
24 audience. On 21 July 1938 for the purpose of ob-
25 taining Imperial sanction for the use of force at

1 Changkufeng, he also denied that the Emperor had
2 reprimanded him, and that in consequence of such
3 reprimand he expressed his desire to resign as War
4 Minister. This testimony appears at page 30,471,
5 line 17, to page 30,472, line 2; page 30,472, lines
6 11 to 17; and page 30,476, line 9, to page 30,477,
7 line 15.
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1 MR. MATTICE: This document is objected to
2 on behalf of the accused ITAGAKI, for the reason that
3 it has no probative value. We think it ought not to be
4 admitted, because it obviously is rank hearsay. It
5 will be noted that the entire document consists of
6 quotations. It is in evidence before this Tribunal
7 that no reporter, secretary or any person present took
8 any notes or took down what occurred.

9 THE PRESIDENT: We keep in mind, Mr. Mattice,
10 how these memoirs came to be written and under what
11 circumstances and who made contributions. There is no
12 need to repeat that. Those are all matters of weight
13 which we must entertain.

14 MR. LOGAN: If the Tribunal please, with
15 respect to that paragraph on page 2 which purports to
16 quote from page 2191, those four lines there with
17 reference to KIDO: Those four lines standing alone are
18 unintelligible and have no probative value. But if
19 that is admitted, I would ask for permission to read
20 five lines on the next page of this SCAP translation
21 which definitely shows that KIDO was opposed to the
22 army having any fight with Russia.

23 MR. FURNESS: If the Court please, we object
24 that the date of this document is not clear. I know
25 from reading the diary that 28 July is not the date on

1 which Baron HARADA stated this conference with
2 MATSUDAIRA. I think Mr. Carr intended to mention that;
3 I wish to say that in justice to him. I do, however,
4 wish to object to the excerpt from page 2194, which
5 is apparently not mentioned in Mr. Carr's introductory
6 remarks. It is a quotation from a letter which Baron
7 HARADA apparently received, does not disclose what
8 knowledge the writer of the letter had, and consists
9 solely of opinions and conclusions by the writer with-
10 out any basis for such opinions and conclusions.

11 MR. COMYNS CARR: Your Honor, with regard to
12 my friend's point about the date, the date at the head
13 is the date of the chapter, and not of the event. In
14 most cases we have put in the left-hand top corner what
15 we gather either from the document itself or the con-
16 text to be the date of the event, but in some of them
17 it was omitted. I agree with my friend, Mr. Furness,
18 that the date of this conversation with MATSUDAIRA was
19 the 21st, and not the 28th of July.

20 MR. FURNESS: I do not want to agree to the
21 21st. I know it was not the 28th, and it was sometime
22 after the 21st. I do not know just when; the 21st or
23 after -- the 21st or subsequent to that date.

24 THE PRESIDENT: Captain TAKAGI's letter is
25 not proof of the contents unless the absence of the

1 letter is accounted for. That is understood in these
2 matters.

3 MR. COMYNS CARR: This particular headphone
4 is working so badly this morning that I did not hear
5 what your Honor said. I believe I can hear better
6 without it.

7 THE PRESIDENT: In these various excerpts
8 there are references to documents and their contents.
9 The excerpts, we take it, are not offered as proof of
10 the contents of any document.

11 In this excerpt there is a reference to a
12 letter from Captain TAKAGI, and part of the contents
13 is stated. That is not proof of the contents of the
14 letter.

15 MR. COMYNS CARR: No, your Honor, not to
16 prove the contents of the letter as such; but in our
17 submission, in view of the Tribunal's ruling as to hear-
18 say, it is neither better nor worse than any other
19 hearsay because it mentions that it was included in a
20 document instead of orally, and as the source is dis-
21 closed, it is admissible for whatever probative value
22 the Tribunal may think it has.

23 THE PRESIDENT: We will recess for fifteen
24 minutes.
25

(Whereupon, at 1050, a recess was

1 taken until 1105, after which the proceedings
2 were resumed as follows:)

3 - - -

4 THE PRESIDENT: Major Furness.

5 MR. FURNESS: With regard to Mr. Comyns Carr's
6 argument, surely this document is not merely being
7 offered to prove that Baron HAFADA received a letter from
8 Captain TAKAGI. I wish to submit that we made exactly
9 the same argument with regard to the introduction of
10 secondary evidence of documents many times and the Court
11 was consistent in ruling that such documents could not
12 be proved by such evidence as this contains.

13 THE PRESIDENT: Mr. Comyns Carr.

14 MR. COMYNS CARR: Your Honor, may I again point
15 out, as I did when this point was raised before, that
16 those were attempts to prove by secondary evidence given
17 now -- the recollection of a witness given now of the
18 contents of a document, the contents of the document
19 being the important matter. Here it is merely desired to
20 show that this Captain TAKAGI stated some facts at the
21 time and it is immaterial whether he is shown to have
22 stated them in writing or orally.

23 MR. FURNESS: If the Court please.

24 THE PRESIDENT: Major Furness, we have heard
25 enough on this.

1 MR. FURNLESS: I must make an objection, your
2 Honor.

3 THE PRESIDENT: There is no occasion to do so.

4 MR. FURNLESS: The same objection was made to
5 Grew's diary and Grew's dispatches, and we were not
6 allowed to introduce them.

7 THE PRESIDENT: By a majority the document,
8 except the last two paragraphs, is admitted on the usual
9 terms and the objection to that extent is overruled.

10 CLERK OF THE COURT: Prosecution document
11 3150-283 will receive exhibit No. 3793 for identifi-
12 cation only; the excerpt therefrom, being prosecution
13 document 3150-283-A, will receive exhibit No. 3793-A.

14 (Whereupon, the document above
15 referred to was marked prosecution exhibit
16 No. 3793 for identification; the excerpt
17 therefrom being marked prosecution exhibit
18 No. 3793-A and received in evidence.)

19 THE PRESIDENT: That is, the reference to KIDO
20 and the subsequent parts are not admitted.

21 MR. COMYNS CARR: The reference to KIDO is not
22 admitted, your Honor? That will be excluding three
23 paragraphs.

24 THE PRESIDENT: I might have to revise that.
25 The last two paragraphs mean the part objected

to by Major Furness.

1 MR. COMYNS CARR: (Reading)

2 "Then when I met MATSUDAIRA, he said: "The
3 fact is that His Imperial Highness, the Chief of the
4 General Staff, and the War Minister proceeded in company
5 to the Imperial Palace this morning and expressed their
6 desire 'to submit some matter to the Throne.' His
7 Majesty, thinking that the War Minister was coming to
8 make an appeal also concerning that question of the use
9 of real force on the Soviet-Manchukuo border and think-
10 ing that it would rather cast a reflection upon H.I.H.
11 Prince, Chief of the General Staff, and the War Minister
12 if the sanction was denied to them when they had appealed
13 directly to him, made the Chief Aide-de-Camp to His
14 Majesty convey his intention in advance out of his very
15 prudent and sympathetic consideration, as follows:
16 'Should it be the case that they are coming, by any
17 chance, to get my sanction to use force of arms, I
18 haven't the slightest intention of approving it. If
19 they are coming for that, they needn't come.' The
20 message to the above effect was conveyed through the
21 Chief Aide-de-Camp to H.I.H. Prince, Chief of the General
22 Staff, and the War Minister. But they said: 'We would
23 like to be received in audience by His Majesty by all
24 means.' So His Majesty, at eleven o'clock, said: 'If
25

1 that be the case, tell them to come,' and waited for
2 them. However, the War Minister and H.I.H. Prince, Chief
3 of the General Staff, kept His Majesty waiting for more
4 than an hour after they had arrived at the Palace. In
5 the meanwhile, the Chief Aide-de-Camp went to and from
6 His Majesty and the War Minister and the Chief of the
7 General Staff, and finally, close to noon, an audience
8 was to be realized.

9 "Then, just as His Majesty had thought, the
10 War Minister submitted the question of the use of force
11 and begged his sanction. His Majesty put the question;
12 "How about contact with the Ministers concerned?" And
13 the War Minister replied: "Both the Foreign Minister
14 and the Navy Minister have agreed." Although both
15 Foreign Minister UGAKI and the Navy Minister had
16 previously expressed their opinion in favor of troop dis-
17 positions, they were absolutely against the use of force.
18 Being answered to his question to the effect that "Both
19 Ministers have agreed," by the War Minister, when he had
20 already known the particulars, His Majesty seemed to have
21 felt that he was going to be deceived again and, with
22 somewhat excited countenance, admonished:

23 "In the first place, the actions on the part
24 of the Army are abominable. There are frequent instances
25 when a sneaky method was used, quite improper for my army

1 disobeying the orders from the central authorities and
2 deciding on the judgment of the authorities on the spot,
3 such as: The case of Liutiaokou in the Manchurian Inci-
4 dent and the actions at the Marco Polo Bridge at the
5 beginring of this Incident. I think it is really abom-
6 inable in various ways. Nothing like that must happen
7 this time. . ."

8 "Then, turning to the War Minister, he said:
9 "Hereafter, you must not move one soldier without my
10 command!" He spoke so emphatically to the War Minister
11 that the War Minister retreated, filled with trepidation.

12 "And when he returned, he said to the effect:
13 "I can never look into His Majesty's face again. I
14 should by all means like to resign." * * * *

15 "When I met KIDO later that day he said, 'Why
16 didn't the Lord Keeper of the Privy Seal act in concert
17 with the Premier and do something? It is disturbing to
18 have the Emperor taking such pointed action.'"

19 MR. LOGAN: May I now read five lines on the
20 next page, if the Tribunal please, which explain KIDO's
21 action there?

22 THE PRESIDENT: Well, this is unusual, Mr. Logan
23 and much as we might like you to do it, it would be con-
24 trary to our practice. But Mr. Carr may decide to read
25 it.

1 MR. COMYNS CARR: If he will show me the
2 lines he wants, I shall read it.

3 On page 2193 in the SCAP translation appear
4 these words as my friend wants:

5 "When I met KIDO he said: 'I intend to speak
6 with KONOYE leisurely tomorrow at Karuizawa. If the
7 Army says that we will have to fight with Russia, then
8 I will recommend KONOYE to resign resolutely.' The
9 Premier was also of that determination."

10 I now offer in evidence IPS document No.
11 3150-285A, an excerpt from HARADA's Memoirs dealing
12 with the letters received by him on August 5, 1938
13 from Captain TAKAGI, Navy Representative attached to
14 the Kwantung Army Command.

15 This excerpt shows the position of the
16 European-Asiatic Bureau of the Japanese Foreign
17 Ministry in connection with the Khassan Lake events.
18 The defense introduced a special report of the European-
19 Asiatic Bureau of the Japanese Foreign Ministry on
20 the Khassan Lake events, exhibit No. 2647-A, record
21 page 22,922, and the affidavit of the witness MIURA,
22 Kazuichi, who had been dispatched by this Bureau to
23 the Korean border and who, under the influence of
24 Army circles submitted biased and distorted information
25 concerning the commencement of hostilities, exhibit No.

2642, record page 22,894.

1 This excerpt from the Memoirs contradicts
2 this evidence.

3 THE PRESIDENT: Major Blakeney.

4 MR. BLAKENEY: I wish to object to this
5 document. I shouldn't perhaps consider it worthwhile
6 to do so if it were only that this document is a
7 conjures of opinions, conclusions, as is shown by
8 the language "I keenly feel" so and so; "I believe,
9 I believe"; "it is truly regrettable."

10 I think the interesting thing, however, is
11 that this is not even Baron HARADA, or whoever may
12 be the author of his memoirs, who feels these things.
13 For if we turn to the complete translation of this
14 chapter, we find that the entire matter contained in
15 this document is a part of a letter from this informant,
16 Captain TAKAGI, whoever he may be.

17 This document, therefore, not only, as Mr.
18 Comyns Carr said, deals with the letter of TAKAGI's
19 but is in fact a part of one of those letters and I
20 submit should be rejected on the same ground as in
21 the case of the letter from TAKAGI in the preceding
22 document.
23

24 MR. FURNESS: If your Honor please --

25 THE PRESIDENT: By a majority the objection

is sustained and the document rejected.

1 MR. FURNESS: I wish also to object to the
2 comments of the prosecutor on the testimony, which
3 seems to me entirely uncalled for, of the witness
4 MIURA.
5

6 THE PRESIDENT: That is quite irregular, Major
7 Furness.

8 MR. COMYNS CARR: I now offer in evidence
9 IPS document 3150-280B. Similar in all respects to
10 the document admitted a short time ago as exhibit
11 3791-A, this document tells of support by OKAWA, Shumei.

12 THE PRESIDENT: Mr. Caudle.

13 MR. CAUDLE: This document has no probative
14 value. Mr. UGAKI denied it. It was only rumor that
15 he said came to him, and no petition whatsoever. And
16 furthermore I would like to call the attention of the
17 Tribunal to the fact that he was never appointed Vice-
18 Minister of Foreign Affairs.

19 THE PRESIDENT: By a majority the objection
20 is overruled and the document admitted on the usual
21 terms.
22

23 CLERK OF THE COURT: Prosecution document
24 3150-280 will receive exhibit No. 3794 for identification
25 only. The excerpt therefrom, being prosecution document
3150-280B, will receive exhibit No. 3794-A.

1 (Whereupon, the document above re-
2 ferred to was marked prosecution exhibit No.
3 3794 for identification; the excerpt there-
4 from being marked prosecution exhibit No.
5 3794-A and received in evidence.)

6 MR. COMYNS CARR: (Reading)

7 "2 July 1938

8 "That evening, I (HARADA) went over to the
9 Navy Minister's and met with the Navy Minister and
10 Vice Minister and the three of us had a leisurely
11 conversation for approximately 2 hours. It was brought
12 out that OKAWA, Shumei recently brought a petition
13 from the young officials of the Foreign Ministry to
14 UGAKI, the Foreign Minister, which stated: 'Appoint
15 SHIRATORI the Vice Minister.'"

16 I now offer in evidence IPS document No.
17 3150-292A, an entry of 22 September, 1938, regarding
18 KIDO's views about UGAKI and more particularly about
19 the Emperor. The latter part was put to KIDO at
20 page 31,531-2 and with regard to his feelings towards
21 UGAKI he was questioned at pages 31,543-4.

22 THE PRESIDENT: Mr. Logan.

23 MR. LOGAN: If the Tribunal please, I object
24 to the introduction of this document. It has no
25 importance in the case as to how KIDO felt towards

1 UGAKI. UGAKI was on the stand and he was asked
2 questions about KIDO and I guess the Tribunal remembers
3 how he viewed his past actions.

4 The translation of this entire document is
5 not accurate. We ask that it be submitted to the
6 Language Section.

7 When KIDO was asked on page 31,538 of the
8 record with respect to the first paragraph he stated
9 he had no recollection whatever of having had such a
10 conversation. On page 31,531 of the record he said
11 he had no recollection of the second part of the
12 excerpt.

13 THE PRESIDENT: By a majority the objection
14 is sustained and the document rejected.
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1 MR. COMYNS CARR: I now offer in evidence
2 IPS document No. 3150-293A relating to 29 September
3 1938 and the resignation of UGAKI and KIDO's views
4 thereon, which was put to him at pages 31,538-9.

5 MR. LOGAN: I object to the introduction of
6 this document, if the Tribunal pleases. At page
7 31,538 the accused KIDO said he had no recollection
8 of this, and the exact words, as in this document,
9 were not put to him. It was summarized.

10 Apparently this document is offered to show
11 why UGAKI resigned. He took the stand. If it was of
12 any importance the prosecution should have asked him
13 at that time. It would appear that this is a quaint
14 and unique way of trying to prove a fact by a dead
15 man when a live man was on the stand.

16 THE PRESIDENT: What is the importance of this,
17 Mr. Carr?

18 MR. COMYNS CARR: Your Honor, I was going to
19 ask that I should have been heard in reply on the
20 last one, but the Tribunal gave its decision before
21 I had an opportunity.

22 THE PRESIDENT: Well, you may be able to
23 recover the position on this one. Perhaps. I don't
24 know.

25 MR. COMYNS CARR: No, your Honor, unfortunate-

ly, because the last one contained two paragraphs.

1 THE PRESIDENT: Make the best you can of
2 this.

3 MR. COMYNS CARR: Your Honor, as far as this
4 one is concerned, which is also the same subject as
5 the first paragraph of the last one, the point is not
6 to show why UGAKI resigned at all. The point is to
7 show that KIDO, who professed in his affidavit to have
8 a high opinion and great friendship for UGAKI, in fact
9 held very different opinions about him.
10

11 THE PRESIDENT: By a majority the objection
12 is sustained and the document rejected.

13 MR. COMYNS CARR: Your Honor, might I be
14 heard and ask the Tribunal to reconsider its ruling
15 with regard to the second paragraph of the previous
16 document, which relates to a totally different subject
17 matter and is, in our submission, of great importance?
18

19 THE PRESIDENT: Well, you know what that means.
20 If we reopen a decision like that for you, we would
21 have to reopen it for every counsel for the defense if
22 he likes to allege it is a very important matter for
23 him.

24 MR. COMYNS CARR: Yes, your Honor, but I
25 wasn't heard on it, and I am afraid that the Tribunal
may have gathered the mistaken impression that the

two paragraphs of that document related to the same thing. They do not. They relate to two quite different things.

THE PRESIDENT: You weren't heard in reply. but you told us why you were tendering it.

MR. COMYNS CARR: Yes, your Honor, but I make it a practice not to go into detail in the introductory statement, to save time, but to reserve detailed reasons for reply.

THE PRESIDENT: We won't alter our decision.

MR. COMYNS CARR: I tender in evidence IPS document 3150-313A in contradiction of the testimony of OSHIMA, page 34,126. lines 14 to 25, that he was not warned by the Deputy Chief of the Army General Staff in the early part of 1939 that the supreme authority of diplomacy was vested in the Emperor.

THE PRESIDENT: Mr. SHIMANOUCI.

MR. SHIMANOUCI: On behalf of OSHIMA I object to the tendering of this document. In our submission, this document has no importance. It does not concretely state what OSHIMA did. To a portion which follows this IPS document there is a statement with respect to what the Vice Chief of the General Staff of the army had told the Lord Keeper of the Privy Seal to the effect that OSHIMA had had no intention or idea

1 of violating the diplomatic prerogatives of the
2 Throne.

3 THE PRESIDENT: Mr. Comyns Carr.

4 MR. COMYNS CARR: Your Honor, there is here
5 a direct contradiction between OSFIMA's testimony
6 and this record, and, in our submission, is a material
7 matter, it being a part of the case against OSHIMA
8 that he acted independently and exceeded his authority.

9 THE PRESIDENT: By a majority the objection
10 is overruled and the document admitted on the usual
11 terms.

12 CLERK OF THE COURT: Prosecution document
13 3150-313 will receive exhibit No. 3795 for identifica-
14 tion only, and the excerpt therefrom, being prosecu-
15 tion document 3150-313A, will receive exhibit No.
16 3795A.

17 (Whereupon, the document above
18 referred to was marked prosecution ex-
19 hibit 3795 for identification; the excerpt
20 therefrom being marked prosecution exhibit
21 3795-A.)

22 MR. COMYNS CARR (reading): "... The Lord
23 Keeper of the Privy Seal then said that the Deputy
24 Chief of Army General Staff came to him a few days ago
25 and said: "I strictly warned Ambassador OSHIMA

1 (Germany) that the supreme authority of diplomacy is
2 vested in the Emperor. I also cautioned him that it
3 is not desirable to forget one's position and always
4 do as Germany says by saying that he is of the same
5 opinion. Japan has the deciding authority. The Army
6 has thus no intention of infringing upon the diplo-
7 matic prerogative of the Emperor. Also, the Army does
8 not pay any attention to the present-day Rightists
9 because they are a most outrageous lot. The civil
10 police and Kempeï have been instructed to take action
11 without hesitation."'"

12 I offer in evidence IPS document 3150-313B
13 to contradict the statement by ITAGAKI, page 30,491,
14 lines 7 to 12, denying that the Emperor urged the
15 Army to advocate the application of the Anti-Comintern
16 program to the Soviet Union alone, and also denying
17 that the Army disagreed with the Emperor's views.

18 THE PRESIDENT: No objection. Admitted on
19 the usual terms.

20 CLERK OF THE COURT: Prosecution document
21 3150-313B will receive exhibit No. 3795-B.

22 (Whereupon, the document above
23 referred to was marked prosecution exhibit
24 3795-B and received in evidence.)

25 MR. COMYNS CARR (reading): "' ... The Army's

1 desire reached the Emperor's ears. Before the Lord
2 Keeper of the Privy Seal or anyone else knew, the
3 Emperor personally decided to call the Chief Aide-de-
4 Camp and said: "Go to the General Staff Headquarters
5 and say that if it is so embarrassing if KONOYE resigns,
6 as a condition for keeping KONOYE in office, decide
7 that question of strengthening the Anti-Comintern pact
8 as decided at the first Five Ministers' Conference.
9 Moreover, how about eliminating those points ad-
10 vocated by the Army, that is, those points which are
11 in discord with the general decisions made at the Five
12 Ministers' Conference? Also, how about deciding to
13 have this anti-Comintern pact directed strictly against
14 the Soviet as it had been decided at the Five Ministers'
15 Conference?" The Emperor had, as his idea, the fore-
16 going transmitted to the Army, who, however, did not
17 show any signs of submitting to the Imperial will and
18 said: "We are not in favor of that."

19 I offer in evidence IPS document 3150-314A to
20 contradict the statement of OSHINA, page 34,125, line
21 5, to page 34,126, line 2, that while ambassador he had
22 not sent a telegram to the General Staff Headquarters
23 concerning the strengthening of the anti-Comintern
24 Pact, the contents of which had not been made known to
25 the Foreign Minister.

THE PRESIDENT: Mr. SHIMANOUCI.

1 MR. SHIMANOUCI: I object to the tender of
2 this document on behalf of the accused OSHIMA on the
3 ground that this document is repetitive and is not
4 important. By repetitive I mean that it is repetitive
5 of the document which repeated the document which
6 was submitted twice before; that is, it repeats IPS
7 document 3150-313; and by saying that this document
8 is not important I mean that there is nothing con-
9 crete as to what was said or discussed between OSHIMA
10 and the General Staff Office.
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12 THE PRESIDENT: Mr. Carr.
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1 MR. COMYNS CARR: Your Honor, this document
2 does not repeat the previous one. The previous one was
3 a warning that OSHIMA should not act in a certain way;
4 this is one which purports to show that he did so in
5 spite of the warning.

6 Secondly, the document does not purport to
7 give the contents of the telegram. The point of it is
8 it says a telegram was sent by OSHIMA to General Staff
9 headquarters contrary to his duty of negotiating with
10 the Foreign Ministry, and no information about it was
11 given to the Foreign Ministry.

12 THE PRESIDENT: By a majority the objection is
13 overruled and the document admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution document 3150-
15 314 will receive exhibit No. 3796 for identification
16 only; excerpt therefrom, being prosecution document
17 3150-314A, will receive exhibit No. 3796-A.
18

19 (Whereupon, the document above
20 referred to was marked prosecution exhibit
21 No. 3796 for identification; the excerpt
22 therefrom being marked prosecution exhibit
23 No. 3796-A and received in evidence.)

24 MR. COMYNS CARR: This is Foreign Minister
25 ARITA speaking in early February 1939:

"...As the Foreign Minister, I am at present

1 reluctantly assuming an extremely strong attitude, which
2 is indeed awkward. However, this must be done in order
3 to see the situation through. If we fail in this, I
4 think that our foreign policy will be a total failure.
5 The other day I said to the Army people: "The Foreign
6 Ministry does not know absolutely anything about the
7 telegram between Ambassador OSHIMA and the General
8 Staff Headquarters concerning the strengthening of the
9 Anti-Comintern pact. No matter how much, and how many
10 years the Army may have studied diplomacy, what right
11 do they have to do such a thing without consulting the
12 Foreign Ministry at all?" I asked for their reconsidera-
13 tion and the Army said they were very sorry. At any
14 rate, such a situation is distressing but I would like
15 you to remain for a while with a little more patience."

16 I tender in evidence IPS document 3150-317A to
17 contradict the testimony of OSHIMA, page 34,129, lines
18 14 to 17, in which he denied receiving instructions
19 from the Foreign Ministry between the arrival of the ITO
20 Commission in Berlin and the latter part of March 1939
21 to do as recommended by the Japanese Government.

22 THE PRESIDENT: Mr. Cunningham.

23 MR. CUNNINGHAM: I would like to object to the
24 introduction of this document, the first part especially,
25 for the reason that it says that HARADA learned on a

1 train ride from some unknown captain. It certainly has
2 no probative value and is not important.

3 In the second place the document is unclear,
4 it is incomplete, it is valueless, and is of no probative
5 value because it does not complete an idea. It does
6 not say what decision was arrived at, but it does say
7 that the Emperor approved the decision, and that would
8 seem to settle it anyway.

9 I might suggest, your Honors, that we are
10 wasting a lot of time on these abortive negotiations
11 which resulted in 73 cabinet meetings for negotiating
12 for the strengthening of the Anti-Comintern Pact, and
13 the negotiations failed.

14 MR. COMYN-CARR: Your Honor, I agree that the
15 first paragraph is of no particular value, but I ask the
16 Tribunal to admit the second.

17 THE PRESIDENT: By a majority the first para-
18 graph is not accepted. The second paragraph is accepted
19 on the usual terms.

20 CLERK OF THE COURT: Prosecution document 3150-
21 317 will receive exhibit No. 3797 for identification
22 only; excerpt therefrom, being prosecution document
23 3150-317A, will receive exhibit No. 3797-A.

24 (Whereupon, the document above
25 referred to was marked prosecution exhibit

No. 3797 for identification; the excerpt
therefrom being marked prosecution exhibit
No. 3797-A and received in evidence.)

MR. COMYNS CARR (reading): "When I met the
Foreign Minister shortly after lunch, he said: "There
is no problem any more from the standpoint of routine.
In short, it is a pending question which, after careful
discussion, has already been reported to the Emperor
and His Majesty, stating that it is an inevitable con-
sequence of circumstances, has sanctioned it. There-
fore, no matter what they (Ambassadors to Rome and
Berlin) might say, the (Japanese) Government cannot can-
cel its decision. All we have to do is to change the
Ambassadors if they are going to rush to conclusions
and say that the decisions (of the Japanese Government)
will not do. As for the transfer of Ambassadors, I
would like to carry it out after the close of the present
session of the Diet. In all cases, we wired back in-
structions to both (Ambassadors) to do as recommended
by the Japanese Government." He further remarked with
firm determination: - "In all likelihood, the Premier
is presumably of the same opinion."

I tender in evidence IPS documents 3150-320A
and 3150-321B for the following purposes:

(a) To contradict the testimony of OSHIMA,

1 page 34,135, line 23, in which he denied making the
2 statement to Ribbentrop that Japan would probably par-
3 ticipate in the war; and

4 (b) To contradict the testimony of SHIRATORI,
5 page 35,040, line 9, where he testified that:

6 "I never for a moment imagined that such a
7 pact would by any means drag Japan against her will
8 into a war of Germany's or Italy's making,"
9 and again at line 22, where he testified:

10 "As to accusations that I acted contrary to
11 instructions from my government, I can state with
12 truth that there was not a single instance of any such
13 delinquency on my part."

14 THE PRESIDENT: Mr. SHIMANOUCI.

15 MR. SHIMANOUCI: On behalf of OSHIMA I object
16 to the tender of both of these documents. With regard
17 to the first document, it is repetitive in so far as
18 OSHIMA is concerned. OSHIMA treats of this matter in
19 his affidavit, which is to be found at record page
20 34,006. Furthermore, in the portion not contained in
21 this IP's document 3150-320 there is the following im-
22 portant item --

23 THE PRESIDENT: You cannot give it. Mr. Carr
24 may consent to read it, but you cannot do so.

25 MR. SHIMANOUCI: With regard to the second

document just tendered by the prosecution, OSHIMA
1 speaks of the matter in his affidavit at the same
2 transcript page as I have given before, namely, 34,006.

3 THE PRESIDENT: By "second document" you mean
4 second paragraph, I take it? Well, it is useless to
5 talk to us about a document of which we haven't a copy.
6 It has not been distributed, Mr. Carr.

7 MR. COMYNS CARR: The second one has not been,
8 no. Then I will deal with the first one alone. The one
9 your Honors have is 320-A, is that right?

10 THE PRESIDENT: That is right.

11 MR. COMYNS CARR: Yes.

12 THE PRESIDENT: Mr. Cunningham.

13 MR. CUNNINGHAM: I didn't get the ruling on it.

14 MR. COMYNS CARR: There hasn't been one yet.

15 The importance of this document is that it
16 states that SHIRATORI, in the first paragraph, being
17 asked whether Japan was going to participate in the war,
18 replied that Japan would, and in the second paragraph
19 OSHIMA, being asked the same question by Ribbentrop,
20 replied that Japan will probably participate.

21 THE PRESIDENT: Who is supposed to have made
22 this statement to HARADA?

23 MR. SHIMANOCHI: If the Tribunal please --

24 THE PRESIDENT: Let Mr. Carr answer the question,
25 please.

1 MR. COMYNS CARR: MATSUDAIRA, Chief Secretary
2 to the Lord Keeper of the Privy Seal, on the 7th of
3 April. We should have included the paragraph which
4 shows that, your Honor.

5 THE PRESIDENT: Do you amend it and re-offer
6 it as amended?

7 MR. COMYNS CARR: Your Honor means including
8 that statement?

9 THE PRESIDENT: MATSUDAIRA.

10 MR. COMYNS CARR: Yes, your Honor.

11 THE PRESIDENT: It is suggested to me that
12 MATSUDAIRA would not know because he was in Tokyo and
13 the Ambassador was in Rome.

14 MR. COMYNS CARR: Your Honor, of course nobody
15 in Tokyo would know at firsthand, but the information
16 clearly can have come only from SHIRATORI and OSHIMA
17 themselves.

18 THE PRESIDENT: By a majority the objection is
19 sustained and the document rejected.

20 We will adjourn until half-past one.

21 (Whereupon, at 1200, a recess was
22 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: With the Tribunal's permission the accused KAYA will be absent from the courtroom the whole of the afternoon session conferring with his counsel.

Captain Kraft.

LANGUAGE ARBITER (Captain Kraft): If the Tribunal please, the following language corrections are submitted: Exhibit No. 3778-A, second paragraph, line 3, delete "delicately," and substitute "as lightly as possible"; lines 5 and 6, delete: "I would like to wrap this /proposal of the Navy/ in a pretty cloth and try to avoid any trouble" and substitute "Somehow, I would like to wrap it in a pretty furoshiki (cloth bundle), put it away and try to avoid having too much trouble with it."

THE PRESIDENT: Substantially different.

Mr. Comyns Carr.

MR. COMYNS CARR: May it please the Tribunal, I now offer in evidence IPS document No. 3150-321B, which is to the same effect in substance as the document

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1 320-A rejected this morning; but that was rejected,
2 as I understood it, on the ground that the source
3 of the information didn't appear sufficiently clear.
4 Here it is the direct statement of the Foreign
5 Minister within whose jurisdiction the two ambassadors
6 served.

7 THE PRESIDENT: Mr. Cunningham.

8 MR. CUNNINGHAM: Object to the introduction
9 of this document because it has no materiality; it is
10 too incomplete to be of any value; the subject is
11 covered comprehensively in the accused OSHIMA's
12 affidavit; this document throws no light whatever
13 on any of the controversies here.

14 THE PRESIDENT: By a majority the objection
15 is overruled and the document admitted on the usual
16 terms.

17 CLERK OF THE COURT: Prosecution document
18 3150-321 will receive exhibit No. 3798 for identifica-
19 tion only; the excerpt therefrom being prosecution
20 document No. 3150-321B will receive exhibit No. 3798-A.

21 (Whereupon, prosecution document
22 No. 3150-321 was marked prosecution exhibit
23 No. 3798 for identification; the excerpt
24 therefrom, prosecution document No. 3150-321B,
25 was marked prosecution exhibit No. 3798-A and

received in evidence.)

1 MR. COMYNS CARR: (Reading) "The Foreign
2 Minister said: 'The other day, on the afternoon of
3 the 8th, to be exact, I went to the Palace with the
4 decision of the Five Ministers' Conference, was
5 granted an audience with the Emperor, and made a
6 confidential report on the decision to the Emperor.
7 Furthermore, I reported: "Ambassadors OSHIMA and
8 SHIRATORI made a clarification, which represented
9 their own opinion only, to Germany and Italy of the
10 Empire's intention to fight in the event that these
11 should wage war with England and France, but they
12 should be made to take this back considering that they
13 acted without regard to the wishes of the central
14 authorities and that their words and actions over-
15 stepped /their authority/. However, * * * ."

16
17 I offer in evidence IPS document 3150-321A
18 to refute the testimony of ITAGAKI, page 30,491,
19 line 13, to page 30,493, line 6, and from page 30,493,
20 line 21, to page 30,494, line 8, in which he denied
21 having a conference with the Emperor on the 11th day
22 of April 1939 in which the Emperor declared that the
23 action of OSHIMA and SHIRATORI in expressing intentions
24 of participating in war constituted an infringement
25 upon the supreme authority of the Emperor, and in

1 which the Emperor expressed his extreme displeasure
2 with the War Minister's attitude of supporting them
3 under such circumstances.

4 THE PRESIDENT: Mr. Cunningham.

5 MR. CUNNINGHAM: Object to the introduction
6 of this document which has already been thoroughly
7 explained by examination and cross-examination at
8 page 34,006. This carries the explanation given in
9 the accused OSHIMA's affidavit. Now, we don't under-
10 stand that this document bears out the prosecution's
11 theory of this case at all but contradicts it, and
12 for the further reason that the document is not intel-
13 ligible at several places. It is hard to tell just
14 what it means.

15 MR. YAMADA: On behalf of the accused
16 ITAGAKI, I object to the presentation of this docu-
17 ment. This question had been elicited in the cross-
18 examination of the accused ITAGAKI already. The
19 contents of this document is hearsay -- a sort of a
20 hearsay of hearsay -- and has no materiality. For the
21 above-stated reason I object to the tender of this
22 document.
23

24 MR. COMYNS CARR: Your Honor, no doubt the
25 matters have been dealt with in the examination and
cross-examination of OSHIMA and ITAGAKI, but the

1 document contradicts their evidence and that is why
2 we tender it.

3 THE PRESIDENT: By a majority the objections
4 are overruled and the document admitted on the usual
5 terms.

6 CLERK OF THE COURT: Prosecution document
7 3150-321A will receive exhibit No. 3798-B.

8 (Whereupon, the document above
9 referred to was marked prosecution exhibit
10 i.e. 3798-B and received in evidence.)
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MR. COMYNS CARR: (Reading)

1 "The evening paper of the 11th mentioned
2 that the War Minister had gone to the Palace from
3 about 2:00 to 3:30 p.m. I was worried about this, so
4 early on the morning of the 12th, I went to the pri-
5 vate residence of MATSUDAIRA, the Chief Secretary to
6 the Lord Keeper of the Privy Seal and asked, 'What
7 was the reason behind the War Minister's visit to the
8 Palace yesterday?' He answered, 'In regards to the
9 visit to the Palace, unless I speak from the beginning,
10 it cannot be understood. Day before yesterday, that
11 is, on the 10th, when the Foreign Minister visited
12 the Palace after the Five Ministers' Conference held
13 a few days ago, the Emperor made an inquiry about the
14 progress of the meeting to the Foreign Minister.
15 Prior to this, the Emperor had learned of the opposi-
16 tion made to governmental instructions by both Am-
17 bassador SHIRATORI and OSHIMA. Consequently, the
18 Emperor thought that for Ambassadors SHIRATORI and
19 OSHIMA to have expressed subsequently Japan's inten-
20 tion to participate in war although they had no
21 authority, was an act overstepping their authority
22 and extremely bad. The Emperor was also aware of the
23 fact that the War Minister was covering up, to a
24 certain extent, such acts committed abroad at each
25

1 session of the Five Ministers' Conference. From the
2 standpoint of the above situation, the Emperor asked
3 the Lord Keeper of the Privy Seal, "I am thinking of
4 especially calling in the War Minister and rebuking
5 him. What is your opinion?" The Lord Keeper of the
6 Privy Seal replied that even though various circum-
7 stances exist, since the opinions of the War, Foreign
8 and Navy Ministers as well as other cabinet members
9 were in agreement as a result of conferences, and
10 since the matter was already settled, he thought that
11 for him /the Emperor/ to make various reproaches on
12 the matter would be rather ill-advised since it would
13 bring about an irritation; and furthermore, that
14 since present circumstances were entirely different
15 from that of the case of the Changkufeng, he thought
16 that it would be better if he /the Emperor/ did not
17 especially call in the War Minister to rebuke him.
18 It was because the Lord Keeper of the Privy Seal felt
19 that the matter, after all, was settled that he made
20 the remark in the sense that it would be better to
21 leave matters as they now stood. Thereupon, since
22 the Emperor said, "If that is the case, I will do so,"
23 the idea of summoning the War Minister was abandoned.
24

25 "On that day, however, the War Minister
happened to go to the Palace on some other business

and was received in audience. Thereupon, the Emperor
1 patiently informed the War Minister of matters with
2 which he was not pleased in regards to this question
3 but not in the sense of rebuking him. /The Emperor's/
4 words were to the effect that in the first place, it
5 was an infringement upon his supreme authority for
6 the two ambassadors abroad to express /Japan's/ inten-
7 tions of participating in war, a matter with which
8 they were not concerned; that he was extremely dis-
9 pleased with the /War Minister's/ taking the attitude
10 of supporting them under such circumstances; and that
11 he was also very dissatisfied with the /War Minister's/
12 deviation /from the subject/ at each meeting of the
13 Cabinet.
14

15 "The War Minister departed in great fear.
16 He went to the room of the Chief Aide-de-Camp and
17 asked, "Who was it that told everything /to the
18 Emperor/?" He was very angry."

19 I now offer in evidence IPS document No.
20 3150-322A of the 20th April, 1939 regarding the views of
21 KIDO and others about the proposed military alliance
22 between Japan and Germany, and again, more particu-
23 larly, KIDO's attitude toward the Emperor to which
24 HARADA took grave exception. That was put to KIDO
25 at pages 31,528-31 and also at pages 31,578-9.

1 The Tribunal will see that there are two
2 separate matters relating to KIDO here. One is his
3 views about the proposed military alliance, and the
4 other is the remarks, contemptuous, in our submission,
5 which he denied making about the Emperor.

6 THE PRESIDENT: Mr. Logan.

7 MR. LOGAN: With respect to the first half
8 of the first paragraph, certainly the fact that KIDO
9 was asked to intercede between the Lord Keeper of the
10 Privy Seal and the Premier with respect to some almost
11 undisclosed matter could have no importance at this
12 time.

13 The middle sentence of the first paragraph,
14 "I could not understand KIDO's attitude in regard to
15 this," should be followed with the sentence, I understand
16 from translators, "I could hardly understand
17 KIDO's talk anyway."

18 THE PRESIDENT: Did the language section tell
19 you that?

20 MR. LOGAN: No, I have not had time to take
21 it up with the language section. It is our translator's
22 version of it.
23

24 THE PRESIDENT: That is irregular, Mr. Logan.

25 MR. LOGAN: I am sorry. I did not realize
I was offending anybody by saying it.

1 The second half of that paragraph was put to
2 KIDO on page 31,579 of the record, but the position
3 of the Premier and others with respect to that pact
4 had been amply covered in the evidence, and there is
5 nothing new there.

6 With respect to the second paragraph, most
7 of which I believe was put to KIDO, up to the fourth
8 line from the bottom, starting with "On my part,"
9 the English translation as it appears in this docu-
10 ment is different from what was put to KIDO on page
11 31,528 of the record in so far as the reference to
12 the Emperor is concerned.

13 In addition to that, the first part of that
14 second paragraph should be rejected on the same
15 grounds as document 3150-292A was rejected this morn-
16 ing as having no importance and no bearing on the
17 issues.

18 The second half of the second paragraph,
19 beginning with the words "On my part," the fourth
20 line from the bottom to the end of that paragraph,
21 should be rejected on the grounds of mere opinion
22 and conclusions of HARADA apparently.

23 The last two paragraphs, I have been unable
24 to find whether they have ever been put to KIDO. The
25 absurdity of the document, I think, is best illus-

1 trated by the sentence of HARADA's where he is think-
2 ing of beating some people to death; and I might say
3 that the purpose of this document is to show that
4 KIDO was in sympathy with any rightists. I refer the
5 Tribunal to document 3150-323A which prosecution has
6 on their order list.

7 THE PRESIDENT: That document is not in
8 evidence yet. It has not been offered.

9 MR. LOGAN: It is not in evidence, but the
10 purpose in referring to it is to show that apparently
11 a few days later HARADA understood what KIDO was
12 talking about.

13 THE PRESIDENT: But we do not know anything
14 about a document not in evidence. You are talking
15 over our heads. You are talking about something of
16 which we are entirely ignorant.

17 MR. LOGAN: I am merely trying to point out,
18 if the Tribunal please, that the prosecution, in
19 this document they are offering, are trying to set
20 up something which they knock down two documents
21 later. If this document is admitted, I submit that
22 in its entirety it should be referred to the language
23 section and redrafted.

24 MR. COMYNS CARR: If it please the Tribunal,
25 in our submission this document is of very great

1 importance, particularly the reference at the begin-
2 ning of the second paragraph to what KIDO said about
3 the Emperor. It is a part of our case against KIDO
4 that he was engaged, from about this time onwards and
5 right down to the end, in the process of bringing the
6 Emperor to the position of accepting what the Army
7 and the rightists wanted. And here he is expressing
8 the desire to do that very thing.

9 With regard to the last part, about HARADA's,
10 as I said, deliberately extravagant remarks, that is
11 only put in for the purpose of showing that HARADA
12 cannot have misunderstood what KIDO has said because
13 his indignation caused him to make those remarks.

14 THE PRESIDENT: We do not know whether it
15 is extravagant or not; he might have meant every
16 word of it.

17 By a majority, the objections are overruled
18 and the document admitted on the usual terms.
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1 MR. LOGAN: If the Tribunal please, with
2 respect to that second paragraph may I have that re-
3 ferred to the Language Section right away before it is
4 read to this Tribunal?

5 THE PRESIDENT: Well, now we won't depart from
6 the practice that we laid down yesterday. It is referred
7 to the Language Section.

8 CLERK OF THE COURT: Prosecution document
9 3150-322 will receive exhibit No. 3799 for identification
10 only; the excerpt therefrom, being prosecution document
11 3150-322A will receive exhibit No. 3799-A.

12 (Whereupon, the document above
13 referred to was marked prosecution exhibit
14 No. 3799 for identification, the excerpt
15 therefrom being marked prosecution exhibit
16 No. 3799-A and received in evidence.)

17 MR. COMYNS CARR: (Reading) "20 April 1939

18 "On the morning of the 20th when I went to
19 see KIDO and inquired about subsequent developments,
20 KIDO said that he had met the Premier (that is HIRANUMA)
21 on the previous day and that as a result of the conver-
22 sation, /found that/ since the Premier appeared to be
23 in a dilemma between the Army and the Lord Keeper of
24 the Privy Seal or the Emperor, and that since the
25 Premier seemed to think that the Army's actions were

1 essentially right, he wanted to settle matters accord-
2 ing to their whims by some means; that to achieve this
3 end, the Premier felt that he would like to have a little
4 more understanding and cooperation of the Lord Keeper
5 of the Privy Seal and consequently also felt that he
6 would like to have the Emperor's understanding along
7 this line; and that his principal object was that he
8 wanted him (KIDO) to do something by interceding to
9 attain this end. I could not understand KIDO's attitude
10 in regards to this. According to KIDO, it is the opin-
11 ion of the Premier and others that although the main
12 text of the Anti-Comintern Pact had already received
13 Imperial Sanction, the Army wants to omit the secret
14 treaty; namely, the attached secret treaty which says
15 that Japan interprets as the principal object of this
16 Pact the activities of the Comintern, in other words,
17 only Soviet Russia; that in regards to this, the Emperor
18 will not give his permission; and that since the Army
19 wishes to omit this /secret treaty/ and avoid being
20 involved in the event that Germany and Italy fought
21 against England, France, or other countries by apply-
22 ing only the text of this Pact, and since both the
23 Army and Navy, especially the Army itself, say that they
24 wish to avoid absolutely Japan's being drawn into the
25 vortex /of war/, would it not be permissible to omit

the secret treaty.

1 "At one time or another, KIDO expressed that
2 he, too was of the same opinion. In his talk to me,
3 KIDO said that the Emperor is essentially a scientist,
4 an extreme liberalist, and at the same time a racist
5 that unless we have the Emperor somewhat change his ideas,
6 a serious gap would develop between /the Emperor/ and
7 the Army and rightists in the future; that, like in the
8 later year of Emperor KOMEI's reign when close officials
9 were completely changed by the Shogunates, we cannot
10 tell what will happen; and that in the Army, we must
11 make it appear as though we understood the Army a little
12 more. On my part, I listened to this remark by KIDO
13 with an extreme feeling of surprise, and although I
14 intended to contradict him, I remained silent because
15 I thought that for me to argue with KIDO now would do
16 no good. I felt it extremely regrettable since I
17 thought that the concern of KIDO and the like was to
18 lead the Army or the rightist to comply as much as
19 possible with the will of the Emperor and that it was
20 their original mission to fulfill their responsibilities
21 in this sense.
22

23 "Therefore, I told KIDO, 'You and I are the
24 ones who best know the reasons that brought about this
25 present situation. If I were to explain what lies at

1 its root, it is the coarse, uncultured, and unrepresentable
2 group among the rightists. They are broadcasting what-
3 ever they please and by creating an atmosphere in
4 which they gave power to whomever they pleased, and
5 against which we could do nothing, they brought about
6 the present disunity of the Army. Although I believe
7 that a man in your position can eliminate this root,
8 since it can no longer be helped, I am thinking of
9 beating to death five or six of the group who might
10 become obstacles in the future, although this is going
11 to great extremes on my part. Although it may cause
12 you some trouble at that time, that is not the problem.
13 Thereupon, KIDO said, 'For you to talk of such extremes
14 is distressing!' However, it was because I was so
15 dissatisfied with KIDO's attitude that I made such
16 remarks.

17 "Just before he left, KIDO made his language
18 somewhat vague and said, 'Since I shall also think of
19 something, do not worry.'"

20 I now offer in evidence IPS document No.
21 3150-322B of 22 April 1939, again showing KIDO's attitude
22 and that of the HIRANUMA Cabinet of which he was a
23 member towards a military alliance and the Emperor.
24 This was put to KIDO at pages 31,567 to 9.
25

THE PRESIDENT: Mr. Logan.

1 MR. LOGAN: If the Tribunal please, I object
2 to this document as it states in the second sentence
3 it is apparent that some gossip was conveyed to HARADA
4 because it states "it was said" and goes on to record
5 what was said. It doesn't state who told HARADA, where
6 he got his information.

7 This was presented to KIDO on record page
8 31,567. He had no recollection of having had this
9 conversation.

10 I might also say that the translator's in-
11 sertion of the word "KIDO" is not, according to our
12 translator's interpretation of this, accurate. In
13 other words, there is a grave question whether KIDO
14 according to the document itself is reported to have
15 said this or whether he is reporting a conversation
16 that he had as to what the Lord Keeper of the Privy
17 Seal said at that time.

18 Furthermore, the Government's position with
19 respect to OSHIMA is already in evidence in this case
20 and this is merely repetitive.

21 I might say, if the Tribunal please, too that
22 by the introduction of documents of this type where there
23 is a strenuous objection on the ground of translation
24 it is not fair to these accused. Where a document like
25 this is read and the Tribunal gets an impression from

37,794

reading the document it is very difficult to correct
that later on.

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THE PRESIDENT: I don't agree with you, Mr.
1 Logan. I don't think you should make those observations.

2 MR. LOGAN: Well, if the Tribunal please --

3 THE PRESIDENT: We have as much experience as
4 you have.

5 MR. LOGAN: Well, in my submission it should
6 be corrected before it is presented to the Tribunal
7 just for that very reason.

8 MR. COMYNS CARR: Your Honor, in my submission
9 it is quite clear from the first words of the second
10 sentence, "The conversation according to KIDO's story"
11 that this is KIDO's account, own account of this con-
12 versation.

13 THE PRESIDENT: I am asked: Why these ques-
14 tions of translation were not taken up with the Lan-
15 guage Section before, and, were they forbidden? Only
16 today I saw a long list of questions raised by Major
17 Blakeney in a letter to Captain Kraft. I had no ob-
18 jection to Major Blakeney taking that course, but I
19 did object to Major Blakeney suggesting what the cor-
20 rect words were.

21 MR. LOGAN: Well, if the Tribunal please,
22 that was the way we used to operate. We would submit
23 what we thought was a correct translation and the Board,
24 as I understand, is an arbitration board, they take
25

1 the prosecution's translation and they take ours and
2 decide which is proper.

3 THE PRESIDENT: Well, my colleagues may differ
4 from me. If they do I shall announce their decision.
5 But I think it improper. Over twelve months ago I
6 prevented this in this Tribunal openly. I prevented
7 Colonel Warren from doing it and I have heard no dis-
8 sent since.

9 MR. LOGAN: Well, what course are we to pur-
10 sue, if the Tribunal please? It is difficult to just
11 ask the Arbitration Board to take one sentence and
12 review it.

13 THE PRESIDENT: That has been done almost in-
14 variably with good results. We require nothing better
15 than good results.

16 MR. LOGAN: With all the difficulties of this
17 language I believe the Arbitration Board is glad to
18 get any assistance we can offer them, particularly
19 with this document which is not even clear to the Jap-
20 anese people. In other words, if the Japanese them-
21 selves do not understand the Japanese document and the
22 translators have to guess at what is in it, and there's
23 several different versions of it --

24 THE PRESIDENT: It is a difficult language
25 which requires great care in the translation. That is

1 why we have this elaborate system in the Language Sec-
2 tion.

3 MR. LOGAN: The prosecution themselves have
4 had two translations of this diary, one of which they
5 submitted to the witnesses and another one which they
6 are now submitting in these documents. They have ad-
7 mitted that. I believe the Arbitration Board would wel-
8 come our version of what we say the translation is so
9 that they can compare both of them and arrive at a
10 decision.

11 THE PRESIDENT: The language is so difficult
12 that you might argue for weeks before them on the mean-
13 ing of a word. We couldn't allow that.

14 MR. LOGAN: It doesn't work out that way, Mr.
15 President. We submit our translation to them and that
16 is all there is to it. Then they take that and compare it
17 with the prosecution's. I never argue with them; never
18 spoke to them about it, any translation.

19 THE PRESIDENT: Well, in my humble judgment
20 the only thing to do is to question the translation of
21 a word or a line and let them decide. If you are going
22 to have arguments they would be of undue length.

23 MR. LOGAN: As I stated there is no question
24 of argument at all. We make our translation and give
25 it to them and they compare it with the prosecution's

1 and they arrive at a decision. We have nothing to do
2 with it. They are an arbitration board.

3 THE PRESIDENT: It is sufficient for you to
4 question the accuracy of any translation and for them
5 to decide without hearing any submissions. At least
6 that is my view. If you have any other scheme we will
7 waste a lot of time. And only now, when some feeling
8 has been aroused by the tender of these HAHADA-SAIONJI
9 Diary entries has the contrary been suggested.

10 MR. LOGAN: It isn't a question of feeling.
11 As I stated before, that is the method we did proceed
12 under was to submit our translations to the Arbitration
13 Board; they took those and compared them with the prose-
14 cution's. I can't understand why the change should come
15 now. It isn't a question of feeling, it is just a
16 question of fairness. If the prosecution can submit
17 two different translations of the same highly disputed
18 Japanese I can't see why the defense can't submit one.

19 THE PRESIDENT: The defense have submitted
20 not one but a thousand documents translated by them,
21 or by those employed by them. So have the prosecution.

22 MR. LOGAN: I am speaking about two transla-
23 tions of the same document.

24 MR. COMYNS CARR: May it please the Tribunal:
25 Might I respectfully state the prosecution's view of

1 of this matter and what I understand to be the practice
2 of the Board?

3 THE PRESIDENT: Well, I know the practice of
4 the Board because I am in touch with them daily, and I
5 was today on this very matter. You can state it for the
6 benefit of my colleagues all of whom may not know of it,

7 MR. COMYNS CARR: As I understand it, the real
8 difficulty which arises is when the defense asks that
9 a whole document, or a large passage of the document,
10 should be referred as a whole to the Language Arbitra-
11 tion Board. That is a matter which they simply have
12 not the staff nor the time to deal with. As long as
13 the points put to them are specific, that is, as long
14 as the defense draws attention to the exact portion
15 which they want altered they can cope with it. And if
16 they do that it doesn't seem to us to matter very much
17 whether they submit their own version as well as merely
18 referring it or not.

19 THE PRESIDENT: Well, Mr. Carr, you know from
20 what you heard this morning that if they submit their
21 own version they will rewrite the whole document.

22 MR. COMYNS CARR: Exactly. That is what I was
23 coming to, your Honor.

24 THE PRESIDENT: That is what I want to prevent.
25 If you allow a little you must allow a lot. These men

1 will be put in this position, they will have to spend
2 hours reading long screeds.

3 MR. COMYNS CARR: That is exactly, your Honor,
4 what we have been striving to prevent in constantly
5 pointing out that it is useless to refer to the Board
6 a whole document or even a long passage of a document
7 with or without an alternative translation offered by
8 the defense. As long as it covers a large area the
9 Board cannot cope with it.

10 THE PRESIDENT: If it is confined to a word
11 or a sentence the Board does not need the prosecution's
12 or the defense's viewpoint. If they do, let them ask
13 for it, let the Board ask for it.
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1 MR. COMYNS CARR: If your Honor please,
2 my concern is to see that it is confined to specific
3 points and doesn't consist of what I may call whole-
4 sale reference. The other point I wanted to mention,
5 your Honor, was this: my friend said that we are
6 submitting different translations from those which
7 we used in cross-examination. Except with regard to
8 a few of the earlier witnesses, that is incorrect.
9 A particular error was pointed out to us by my friend,
10 Mr. Furness, and from that time onwards we had each
11 excerpt retranslated before we used it in cross-
12 examination, and as far as I know it has not been
13 further revised in presenting the documents now.

14 MR. LOGAN: With respect to this last state-
15 ment, I do know this: that when KIDO was on the stand
16 the words that were put to him in English, as contained
17 in this document, are not the same as contained in
18 document 3150-322A, which was just offered in evidence
19 as shown. The words here are: "unless we have the
20 Emperor somewhat change his ideas." That is not the
21 same as put to him on page 31,528 of the record.

22 I would also like to state, if the Tribunal
23 please, that the length of the document, in my sub-
24 mission, is immaterial because if our translation is
25 correct, no matter how long it is, and the Arbitration

1 Board says it is correct, that is the document this
2 Tribunal should hear and listen to -- not the prose-
3 cution's interpretation of it.

4 THE PRESIDENT: It is not necessary to tell
5 us that. We agree with you. We never held any other
6 view.

7 MR. LOGAN: Well, what procedure shall we
8 follow now: submit our translations to the Arbitra-
9 tion Board?

10 THE PRESIDENT: You know what the procedure
11 is. You only want me to repeat myself unnecessarily.

12 Mr. Comyns Carr.

13 MR. WARREN: May I be heard, your Honor?

14 THE PRESIDENT: No, we have heard enough on
15 this particular matter of the translations. Is that
16 what you are coming to speak about or are you coming
17 to make an objection?

18 MR. WARREN: I did neither. I came to ask a
19 request of the Tribunal. You said that your colleagues
20 had not ruled on this, and I wanted a ruling on it.

21 THE PRESIDENT: They have not been invited
22 to rule on anything yet.

23 MR. LOGAN: If the Tribunal pleases, perhaps
24 you didn't understand me, but it is doubtful in our
25 minds what procedure to follow, and that is what I

1 would like to know, if that is the ruling of the
2 entire Tribunal, that we must not submit our trans-
3 lations to the Arbitration Board.

4 THE PRESIDENT: No such direction has ever
5 been given. I have indicated a dozen times what has
6 been done. If there is a determination not to under-
7 stand me, I cannot help it. It is confined to only
8 one or two counsel.

9 My colleagues on both sides support my
10 attitude and they have sent me notes to that effect.
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1 MR. COMYNS CARR: Your Honor, may I now ask
2 for a ruling on the admissibility of document 322B,
3 which was under discussion before this matter arose?

4 THE PRESIDENT: By a majority, the objection
5 is overruled and the document admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution document
8 3150-322B will receive exhibit No. 3799-B.

9 (Whereupon, the document above
10 referred to was marked prosecution exhibit
11 No. 3799-B and received in evidence.)

12 MR. COMYNS CARR: (Reading) 22 April 1939.

13 "...That is, from 2:00 p.m. till about 3:00 p.m.
14 of the 22nd, it was said that KIDO conferred with the
15 Lord Keeper of the Privy Seal at official residence.
16 The conversation according to KIDO's story was that he
17 /KIDJ/ said that Japan is resolved to push stubbornly
18 ahead under the terms as they now stand; that it was
19 still intended to make contact with Hitler through
20 Ambassador OSHIMA instead of having the Premier do it
21 directly; that if this method did not work, the cabinet
22 would resign; and that it was desired, therefore, that
23 consideration be given to the aftermath of a change in
24 cabinets. In the final analysis, it meant that instead
25 of trying to change the Emperor's mind or the attitude

1 of the Lord Keeper of the Privy Seal, he /KIDO/ stated
2 clearly in definite terms of 'A' or 'B.' According
3 to the point of view, it means that through the Lord
4 Keeper of the Privy Seal, the Emperor would be told
5 that as long as Imperial sanction is not given, matters
6 would be advanced as they now stand, but in the event
7 they do not agree, the government may have to resign.
8 Therefore, it can, after all, be taken also to mean
9 that that remark that because Imperial sanction is
10 not given, nothing can be done even if the government
11 comes to the point where it resigns, is a mild, semi-
12 threatening, though it may be improper for me to use
13 this expression, sort of a menacing remark made through
14 the Lord Keeper of the Privy Seal."

15 I offer in evidence IPS document 3150-323A
16 for the following purposes:

17 (a) To contradict the testimony of ITAGAKI,
18 page 30,497, line 21, and page 30,498, in which he
19 denied that a request was received from Ambassadors
20 OSHIMA and SHIRATORI for their recall and consequently
21 it had been decided that the Foreign Minister should
22 present a general statement directed to Hitler and
23 Mussolini through the German and Italian ambassadors
24 in Tokyo instead of using the Japanese ambassadors
25 stationed in Berlin and Rome; and

1 (b) To contradict the testimony of OSHIMA,
2 page 34,137, lines 10 to 22, in which he denied request-
3 ing the Japanese Government to recall him from Germany.

4 THE PRESIDENT: Mr. Logan.

5 MR. LOGAN: If the Tribunal please, I join
6 in the prosecution's request to have the first paragraph
7 admitted in evidence.

8 THE PRESIDENT: Mr. Cunningham.

9 MR. CUNNINGHAM: And I object to the balance
10 of the document for the reason that the balance of the
11 document only generalizes and is not connected with any
12 particular subject and throws no light on any of the
13 controversies here.

14 There is nothing in this document which shows
15 why OSHIMA and SHIRATORI would be recalled or would be
16 expected to come home, and it only speculates, and
17 certainly can be of no assistance to the Tribunal in
18 that question. The document neither contradicts nor
19 supports any contention of the prosecution or defense,
20 and certainly has no value.

21 THE PRESIDENT: Mr. Comyns Carr.

22 MR. COMYNS CARR: Your Honor, the first para-
23 graph seems to be not objected to.

24 With regard to the second, it definitely
25 contradicts OSHIMA's statement and ITAGAKI's; and the

1 third explains further the procedure decided to be
2 adopted owing to the attitude of OSHIMA and SHIRATORI
3 of negotiating through the Italian ministers and
4 German ministers in Tokyo instead of through their own
5 ambassadors.

6 THE PRESIDENT: By a majority, the objection
7 is overruled and the document admitted on the usual
8 terms.

9 Read it after the recess, Mr. Carr.

10 We will recess for fifteen minutes.

11 (Whereupon, at 1445, a recess was
12 taken until 1500, after which the proceedings
13 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 CLERK OF THE COURT: IPS document 3150-323
4 will receive exhibit No. 3800 for identification
5 only; the excerpt therefrom, being prosecution docu-
6 ment 3150-323A, will receive exhibit No. 3800A.

7 (Whereupon, prosecution document
8 No. 3950-323 was marked prosecution exhibit
9 No. 3800 for identification; and the excerpt
10 therefrom, prosecution document No. 3150-
11 323A, was marked prosecution exhibit No.
12 3800A and received in evidence.)

13 THE PRESIDENT: Mr. Comyns Carr.

14 MR. COMYNS CARR: "When I called on KIDO on
15 the morning of the 24th, he seemed to have greatly
16 changed his attitude and said: 'There is no alterna-
17 tive but to recall both Ambassadors /T.N. OSHIMA and
18 SHIRATORI/ at all cost. If this should happen to
19 influence the peace and order within the nation, I
20 intend to control matters suitably, and I expect to
21 suppress the Rightists myself.'

22 "On the 25th, after the Five Ministers' Con-
23 ference, ARITA told me: 'An urgent request has come
24 from both Ambassadors /T.N. SHIRATORI and OSHIMA/ for
25 their recall. Therefore, a discussion was held to

1 devise necessary due counter-measures. It was decided
2 that communication be made directly by the Premier
3 with Hitler and Mussolini through the German and
4 Italian Ambassadors in Tokyo, instead of using the
5 Japanese Ambassadors stationed in Berlin and Rome.

6 "I went to Okitsu that night. On the morning
7 of the 26th, I called up Vice-minister YAMAMOTO when
8 he said: 'at any rate, it would be better, after
9 doing everything possible, to assume the attitude
10 that we are contented with whatever the result may be.
11 The Navy Minister also said the same thing. Concern-
12 ing (p.2507) this matter of doing everything possible,
13 which has been touched on lightly before, Foreign
14 Minister ARITA said: 'Through the German and Italian
15 Ambassadors in Tokyo, the Premier will approach Hitler
16 and Mussolini in a general manner. The Foreign
17 Minister will present the particulars of this problem
18 to the Foreign Ministers of Germany and Italy. They
19 will push this matter to the very end until its con-
20 clusion, but if there should be any difference to the
21 demands of Japan, negotiations will be cut off. Even
22 if things cannot become satisfactorily concluded, that
23 is unavoidable. This is what was decided upon at the
24 Five Ministers' Conference.'"

25 I offer in evidence IPS document 3150-324A

1 to contradict the testimony of ITAGAKI, page 30,501;
2 line 6-14, in which he denied that a Gauss draft of
3 the proposed treaty had been submitted to the German
4 Foreign Office through attaches of the Japanese Army.

5 THE PRESIDENT: No objection? Mr. Cunning-
6 ham.

7 MR. CUNNINGHAM: We object to that as merely
8 a speculation, not based upon any foundation of fact
9 or any documents of authority and, therefore, only
10 the opinion and the conclusion of HARADA and not
11 authentic.

12 MR. COMYNS CARR: Your Honor, the whole of
13 it is a statement by ARITA, the Foreign Minister,
14 actually.

15 MR. CUNNINGHAM: I might say that the Gauss
16 plan is in evidence here, I believe.

17 THE PRESIDENT: Mr. Mattice.

18 MR. MATTICE: I also object to it on behalf
19 of the accused ITAGAKI. The document offered does
20 not mention or refer to him, and a glance at it will
21 show that what is quoted as having been said by ARITA
22 is simply speculation. It reads, "It somehow seems
23 that it was submitted by the Japanese Army."
24

25 THE PRESIDENT: Do you wish to say anything,
Mr. Carr?

1 MR. COMYNS CARR: Your Honor, it is a direct
2 statement of actual events by ARITA, the Foreign
3 Minister.

4 THE PRESIDENT: By a majority, the objections
5 are overruled and the document admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution document No.
8 3150-324 will receive exhibit No. 3801 for identifica-
9 tion only; the excerpt therefrom, being prosecution
10 document 3150-324A, will receive exhibit No. 3801A.

11 (Whereupon, prosecution document
12 No. 3150-324 was marked prosecution exhibit
13 No. 3801 for identification; the excerpt
14 therefrom, prosecution document No. 3150-
15 324A, was marked prosecution exhibit No.
16 3801A and received in evidence.)

17 MR. COMYNS CARR: (Reading)

18 "9 May 1939.

19 "Early on the morning of the 6th, I went to
20 ARITA's residence in Mejiro and he said: 'Yesterday,
21 just after I handed the Premier's message to the
22 German and Italian Ambassadors in Tokyo, I received
23 an official wire from Councilor USAMI in Berlin, which
24 said that he /USAMI/ was requested by Gauss, the Deputy
25 Vice-Minister of the German Foreign Office to meet him.

1 He /Gauss/ asked if Japan wouldn't agree to a proposal
2 such as this, and added that as this had not been
3 shown to Foreign Minister Ribbentrop yet, he /GAUSS/
4 did not know what the Foreign Minister would have to
5 say about it, but he /Gauss/ was showing this to him
6 /USAMI/, unofficially, as his private plan. Upon
7 looking through the draft, though it was written in
8 a very indirect fashion, emphasis was put on the
9 German demands previously refused by Japan, which
10 after all was a draft then including those demands.
11 Then ARITA said, 'I have investigated the origin of
12 this draft and it somehow seems that it was submitted
13 by the Japanese Army to the German Foreign Office
14 through the attaches. This is outrageous and I won't
15 be responsible if this sort of the conspiracy goes on.'
16 However, he /ARITA/ did not show me /HARADA/ the
17 actual contents of the draft."
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MR. COMYNS CARR: I now offer in evidence
1 IPS document No. 3150-324C. Prosecution offers this
2 document, relating to 8 May 1939, in connection with
3 KOISO's testimony, page 32,234-5, that while he was
4 Overseas Minister in the HIRANUMA Cabinet he only
5 knew vaguely that the problem of the Tripartite Pact
6 was being discussed at a Five Ministers Conference,
7 and that he never expressed his views on the subject
8 on any other occasion except one, when in May 1939
9 at the request of the War Vice-Minister he was asked
10 to help to restore friendly relations between the
11 War and Navy Ministers who had offered their views
12 concerning the contents of the conclusion of the alliance.

13 THE PRESIDENT: Captain Brooks.

14 MR. BROOKS: I wish to object on behalf of
15 KOISO. At the most this is a mere observation on the
16 Army's solution and has no probative value. This would
17 be clear if the prosecution had included three more
18 sentences, as the third sentence following this excerpt
19 is important, for there KOISO inquires, "What is the
20 opinion of the Lord Keeper of the Privy Seal" on the
21 Army solution mentioned herein.

22 I further object because it is repetitive as
23 to KOISO's opposition to the Tripartite Pact as with
24 Germany and Italy. For there is evidence which is
25

1 clear as to his refusal to ameliorate the strife
2 between the Army and Navy over the Tripartite Pact
3 because he was opposed to it.

4 Therefore it is, in my submission,
5 unimportant as showing what his stand was toward the
6 Tripartite Pact, in that he was merely discussing and
7 trying to find out another party's viewpoint thereon
8 of the Army's policy which he had been asked to
9 ameliorate.

10 MR. COMYNS CARR: This document contradicts
11 the evidence to which my friend has just referred, by
12 showing that he was in favor of it. It is quite --

13 THE PRESIDENT: You need not say any more.
14 Captain Brooks wants to say something.

15 MR. BROOKS: I don't want to interrupt if he
16 is not through; but I wanted him to point out to the
17 Court where that is shown. I couldn't find it. It
18 may be a different translation. There is a translation
19 error; I know that.

20 THE PRESIDENT: By a majority the objection
21 is overruled and the document admitted on the usual
22 terms.

23 CLERK OF THE COURT: Prosecution document
24 3150-324C will receive exhibit No. 3801-B.

(Whereupon, the document above referred

to was marked prosecution exhibit No.
3801-B and received in evidence.)

MR. COMYNS CARR: (Reading)

"8 May 1939

"Overseas Affairs Minister KOISO wanted to see me so I met him on the night of the 8th at my relative's house. We talked from about 8:30 to about 11:00 and first of all KOISO said: 'The solution of the China Problem, which is so often mentioned by the Army; namely, the reaching of the conclusion of the war as soon as possible; will be impossible without a tri-partite alliance. Because the officers and men at the front are displeased with British and French aid to Chiang Kai-shek, an alliance with Germany and Italy will alleviate their feelings somewhat. It would then be in order to settle the China Problem through the offices of England and France. Otherwise, it will be extremely difficult to pacify the officers and men at the front.'"

I offer in evidence IPS documents --

My friend asked me to read a little more from the original volume; I will.

A few lines further on the diary records that KOISO asked "What is the opinion of the Lord Keeper of the Privy Seal?"

I offer in evidence IPS documents 3150-324B,
1 325A, and 326B for the following purposes:

2 (a) to contradict the testimony of ITAGAKI
3 that Premier HIRANUMA at a Five Ministers' Conference
4 on 9 May 1939 did not consider that a reply to his
5 message to Hitler was unnecessary because the matter
6 of reply had been solved when Ambassador OSHIMA
7 replied "yes" to Foreign Minister Ribbentrop's inquiry
8 as to whether Japan would be considered in a state of
9 war in the event Germany should go to war against
10 another nation. ITAGAKI's testimony with regard to
11 OSHIMA's reply to Ribbentrop appears at page 30,501,
12 line 20 to page 30,502, line 18; and page 30,504,
13 line 1-20.

14 (b) to contradict the testimony of ITAGAKI,
15 page 30,504, line 21 to page 30,505, line 5, that
16 Foreign Minister ARITA advocated at a Five Ministers'
17 Conference held on the 20th of May, 1939, the annul-
18 ment of Ambassador OSHIMA's reply to Ribbentrop that
19 it would be permissible to recognize Japan as being
20 in a state of war in the event that Germany should go
21 to war against another nation. ITAGAKI's testimony
22 on this subject appears at page 30,501, line 20 to
23 page 30,502, line 4; page 30,502, line 5-18; and
24 page 30,504, line 1 to page 30,505, line 5.
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1 (c) the testimony of OSHIMA, page 34,138,
2 line 5-22, denying that in making his reply to Ribben-
3 trop's inquiry he went beyond stating that Japan
4 recognized "in principle" her obligation to partici-
5 pate in war.

6 Your Honor, those are three documents. I
7 had better tender them separately, but I have given
8 the explanation of all of them together. I tender
9 324B first, please.

10 THE PRESIDENT: Colonel Warren.

11 MR. WARREN: If the Tribunal please, the
12 only stated reason that these documents are offered --
13 he has offered only one; but, if I may be permitted
14 to argue the four of them, I should like to do so.

15 MR. COMYNS CARR: Three.

16 MR. WARREN: Three. Well, the fourth one is
17 the same.

18 THE PRESIDENT: It is impossible for us to
19 intelligently follow an argument based on documents
20 we have not seen. You had better tender the others,
21 Mr. Carr.

22 MR. COMYNS CARR: If your Honor pleases, yes.
23 I tender also 325A and 326B.

24 MR. WARREN: Shall I proceed, sir?

25 THE PRESIDENT: Not yet, Colonel Warren,

1 because the third document has not yet been distributed.

2 MR. WARREN: Oh, I see.

3 THE PRESIDENT: You may proceed now, Colonel.

4 MR. WARREN: I contend, your Honor, that
5 these documents are not important; and, in so far as
6 assistance to this Tribunal is concerned, they have
7 absolutely no probative value. They are highly re-
8 petitive in any event.

9 Starting with IPS document 3150-324B, the
10 first sentence, "After this, I profess without any
11 relation to the Premier's message ..." I assume, but
12 I do not know that to be a fact, that the message to
13 which this document refers was Baron HIRANUMA's mes-
14 sage to Hitler, or it might have been Baron HIRANUMA's
15 message to the Emperor that Japan would not partici-
16 pate in war. As I say, I do not know, but the prose-
17 cutor says he disagrees with me.

18 MR. COMYNS CARR: I said I agreed with my
19 friend's first suggestion.
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1 MR. WARREN: I thought he said the last. He
2 says he agrees with my last statement.

3 MR. COMYNS CARR: First.

4 MR. WARREN: I mean first statement, but you
5 can't tell from reading the document who HARADA meant
6 when you go back into his diary. It is of little moment
7 what either one of us thinks because you must draw your
8 conclusions from the evidence and not from what our
9 interpretation of it may be. It would take at least
10 15 more extracts from this diary here in order to clarify
11 the situation, and having read it, I am not sure that
12 even then it could be done. However, assuming for the
13 sake of argument that the prosecution is correct and
14 that it was the message to Hitler, that will be found
15 on page 6,103 of the record. It was introduced by Mr.
16 Hyde and was given exhibit No. 503. It supports the
17 position of Japan at that time, but this was not a
18 tripartite agreement in accordance with the one with
19 which the prosecution has been trying to connect it,
20 I suppose in 1940, but was an anti-Comintern Pact
21 directed at one nation only, Russia. It sets out every
22 single thing of importance in any one of these -- not
23 three but four documents. There is another one in this
24 list he didn't call to your mind.
25

If these documents do anything, the only thing

1 they can do is to show that these people who are sup-
2 posed to have been conspiring with each other were ac-
3 tually fighting with each other. I submit that there is
4 in each one of these documents sufficient evidence, if
5 you take it as evidence, to take the contrary view to
6 that stated by the prosecution as well as to take the
7 view stated by him, and without many more extracts to
8 clarify what was meant, I don't think the Tribunal, from
9 these documents, could ever reach any opinion that would
10 be safe to base a judgment upon. At the best, every-
11 thing concerning the documents we have had before this
12 for some time, up to the present time, has been but a
13 tempest in a teapot because Germany never did agree
14 with them and signed a pact with Russia -- a non-aggression
15 pact with Russia, and the whole thing was forgotten,
16 so how can it help this Tribunal? Every bit of evidence
17 that this brings out, either pro or con, is already
18 before the Tribunal, and the Tribunal knows it now much
19 more clearly than it will if they try to adjust their
20 minds to these, in some instances, mad scramblings that
21 we have here, and if the Tribunal accepts them we will
22 be in this position: We will have to assume that some-
23 where in here is something the Tribunal wanted; we won't
24 know what it is; we will have to answer it all, with
25 witnesses and with documents, and this thing will be five

times as long as it is now when the defense gets through
1 with it, if we are permitted to go into it.

2 For that reason we submit, your Honor, that
3 they should be rejected.

4 THE PRESIDENT: Mr. Cunningham.

5 MR. CUNNINGHAM: Your Honor, in the first place
6 I object to the prosecution offering three documents at
7 the same time. That adds more to our confusion than
8 ever.

9 THE PRESIDENT: We disagree with you. We in-
10 vited that to understand what the argument would be
11 about. Frequently we have had a document tendered ten
12 times the length of these three documents put together,
13 and we have heard no protest from you, and there could
14 not be any. These are all related matters.

15 MR. CUNNINGHAM: My objection runs particularly
16 to the first one, and I only want to call the attention
17 of the Tribunal to the inconsistency of the documents
18 324-B and 323-C. In one the prosecution is contending
19 that there is disagreement between the ambassadors and
20 the government and in this document they are contend-
21 ing that there is wholehearted agreement between them,
22 and we can't follow the line of reasoning at all. If
23 their purpose is to prove disagreement, then one document
24 is inadmissible; if their purpose is to prove agreement,
25

then the other document is inadmissible. They certainly can't both be admissible to prove inconsistent positions.

MR. COMYN: CARR: Your Honor, in our submission --

THE PRESIDENT: We do not want to hear you,

Mr. Carr.

By a majority the objections are overruled and the documents admitted on the usual terms.

CLERK OF THE COURT: Prosecution document 3150-324B will receive exhibit No. 3801-C. Prosecution document 3150-325 will receive exhibit No. 3802 for identification only; excerpt therefrom, namely 325-A, will receive exhibit No. 3802-A. Prosecution document 3150-326 will receive exhibit No. 3803 for identification only; excerpt therefrom, 326-B, will receive exhibit No. 3803-A.

(Whereupon, prosecution document 3150-324B was marked prosecution exhibit No. 3801-C and received in evidence; prosecution document 3150-325 was marked prosecution exhibit No. 3802 for identification, the excerpt therefrom being marked prosecution exhibit No. 3802-A and received in evidence; prosecution document 3150-326 was marked prosecution exhibit No. 3803 for identification, the excerpt there-

1 from being marked prosecution exhibit No.
2 3803-A and received in evidence.)

3 MR. COMYNS CARR: I will read exhibit 3801-C:

4 "After this, without any relation to the
5 Premier's message, there was a wire from Ambassador
6 OSHIMA. It mentioned that 2 or 3 days ago that Foreign
7 Minister Ribbentrop called up Ambassador OSHIMA at
8 Berlin from Munich on his way to meet Ciano at Como,
9 and questioned OSHIMA: 'When a contracting nation goes
10 to war against a third nation, and even if there is no
11 military aid from Japan (Germany and Italy do not ex-
12 pect military aid from Japan. It is impossible for
13 Japan to do so), would it be permissible to recognize
14 Japan as being in a state of war?' OSHIMA had replied
15 in the affirmative.

16 "Regarding this, ARITA said that it is indeed
17 inexcusable for those abroad to propose, on their own
18 authority, such a thing as 'participation in war' and to
19 make such an arbitrary reply. A Five Ministers Con-
20 ference is scheduled for tomorrow, but this matter will
21 be of considerable difficulty, for Premier HIRANUMA is
22 inclined to assume a supporting attitude rather than
23 remain neutral. I believe that such matters have al-
24 ready been transmitted abroad by the Army, and if such
25 is the case, I cannot assume the responsibility for our

foreign policy.'

1 "I returned home and called the Lord Keeper of
2 the Privy Seal and told him of it. On the 7th, I went
3 to Yokohama with MATSUDAIRA for dinner. In the midst of
4 our dinner, the Foreign Minister called me and said:
5 'I would like to see you as soon as possible.' Together
6 with MATSUDAIRA, I visited the Foreign Minister from
7 9:00 p.m. and asked the results of the Five Ministers'
8 Conference. As we had expected, the Premier supported
9 the opinion of the War Minister, and upheld OSHIMA's
10 answer to Ribbentrop, that in the event of war between
11 one of the contracting parties and a third nation, Japan
12 will be considered to have entered a state of war, al-
13 though it will not give any military support."
14

15 I now read exhibit 3802-A:

16 "Concerning the results of the Five Ministers'
17 Conference of the 9th, the Navy Vice-Minister said:
18 'The conference was opened at 2:00 p.m. First of all,
19 the Navy Minister said: "The Gauss draft which we have
20 here did not come through legitimate channels. If we
21 are to follow the proper course, making this a problem
22 for the Five Ministers Conference, in the first place
23 we have not even received an official reply from Germany
24 to the message of the Premier. Notwithstanding the fact
25 that to demand an answer reply is our first problem,

1 don't you think it very odd to attach ourselves to the
2 Gauss draft without demanding this reply. However, no
3 one said anything about it and again continued discuss-
4 ing the Gauss draft. The Premier, in his remark, gave
5 me the impression that a reply to his message was un-
6 necessary because the matter had already been solved
7 when Ambassador OSHIMA had replied 'yes' when Foreign
8 Minister Ribbentrop had asked him whether it was all
9 right to consider Japan a participant / in the event of
10 war/. In other words, it was agreeable for Japan to be
11 considered as ready to participate in the event of war
12 between England-France and Germany-Italy. . ."

13 I now read exhibit 3803-A:

14 "Immediately the War and Navy Ministers each
15 saw the Premier individually and gave him the story, and
16 a Five Ministers' Conference was hurriedly held at 9
17 a.m. on the 20th, and this problem was settled in sub-
18 stance roughly as above. However, with regard to the
19 Foreign Minister's proposal to make Ambassador OSHIMA
20 retract his affirmative answer to Foreign Minister
21 Ribbentrop's question as to whether it was all right to
22 conclude that /Japan/ would enter into a state of war,
23 the Premier was evasive and would not make him retract
24 it. The Foreign Minister, however, cautioned the Premier
25 that he ought to report privately to the Throne, because

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1 though it could not be said that a complete agreement in
2 opinion had been reached between the Army and Navy /the
3 matter/ had actually been decided and it appeared that
4 instructions would soon be issued. . . .
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1 "And though the Premier was asked over and
2 over at the Five Ministers' Conference to rescind
3 Ambassador OSHIMA's words, he simply assumed an atti-
4 tude indicating that that was all right. And so the
5 deletion of Article III of the above-mentioned secret
6 understanding concerning the participant nations, etc.
7 and the revision of the wording of the announcement
8 to be made to the world have finally been carried out,
9 but the statement about 'entering into a state of war,'
10 etc. by Ambassador OSHIMA /in reply/ to Ribbentrop,
11 the annulment of which was pressed for by Foreign
12 Minister ARITA, has been left unrescinded, after all.
13 And so this has had much to do with leaving uncorrected
14 a source of trouble for the future."

15 I tender in evidence IPS document 3150-326A
16 to contradict the testimony of ITAGAKI, page 30,506,
17 line 7, to page 30,507, line 22, in which he denied
18 that he and HIRANUMA continued their efforts after the
19 Five Ministers' Conference of May 20 in behalf of the
20 army plan for automatic entrance into a state of war.

21 This, I think, was the fourth document which
22 my friend Colonel Warren was referring to. It might
23 have been taken with the previous three.

24 MR. USAMI: I object to the tender of this
25 document on behalf of the accused HIRANUMA.

1 One of the grounds for the objection is the
2 same as that stated by Mr. Warren in connection with
3 the previous documents. My additional reason is
4 that this document is repetitive.

5 THE PRESIDENT: Mr. Carr.

6 MR. COMYNS CARR: Your Honor, it carries the
7 same matter further in point of time. That is the real
8 purpose of it.

9 THE PRESIDENT: By a majority the objection
10 is overruled and the document admitted on the usual
11 terms.

12 CLERK OF THE COURT: Prosecution document
13 3150-326A will receive prosecution exhibit No. 3803B.

14 (Whereupon, the document above
15 referred to was marked prosecution exhibit
16 3803-B and received in evidence.)

17 MR. COMYNS CARR (reading): "Early on the morn-
18 ing of the 23rd I called Vice-Minister YAMAMOTO to the
19 phone in order to learn what the latest developments
20 were. According to what Vice-Minister YAMAMOTO said
21 he understood that both ambassadors, i. e. SHIRATORI
22 and OSHIMA, said that nothing could be done about
23 that particular draft and they kicked it back. He
24 went on to say that at the same time the Army claimed
25 that there were some words missing /T.N. presumably in

1 the draft/ therefore he /YAMAMOTO/ thought that /the
2 whole business/ was scandalous.

3 "Later I talked over the phone with Foreign
4 Minister ARITA. He said: "We discussed the matter
5 at the Foreign Ministry last night. It fell back on
6 their /T.N. Germany, Italy/ demands to enter the
7 war. The Army's contention that words were missing
8 meant a clear-cut expression of participation in war
9 and I cannot agree with them. Yesterday I sent the
10 Vice-Minister to the Premier, but he says that it should
11 be done the way the Army wants. It appears as if he
12 too wishes to have it read "participation in war."

13 "Then I talked over the phone with the Navy
14 Minister. He was very enraged and said: 'It is out-
15 rageous even to mention matters such as participation
16 in war or condition of war. In spite of the fact that
17 the Emperor often says, "I shall not permit it," to the
18 General Staff Headquarters, the War Minister, and the
19 Premier. concerning participation in war, it is very
20 abominable for the Premier to support the Army and the
21 Ambassadors who take action contrary to the will of the
22 Emperor.'" "

24 I offer in evidence IPS document 3150-332A to
25 contradict the testimony of ITAGAKI that the Emperor
did not inquire of him on or about the 7th of July 1939

1 as to the reason for his demand that the British at
2 Tientsin hand over to the Provisional Government in
3 Peking 45 million yen, and to contradict ITAGAKI's
4 further statement that the Emperor did not rebuke
5 him in connection with this matter. ITAGAKI's testi-
6 mony on this subject appears at page 30,479, line 5,
7 to page 30,482, line 13.

8 THE PRESIDENT: There being no objection,
9 the document is admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution document
11 3150-332 will receive exhibit No. 3804 for identi-
12 fication only.

13 (Whereupon, the document above
14 referred to was marked prosecution exhibit
15 3804 for identification.)

16 The excerpt therefrom --

17 MR. YAMADA: I object to the tender of this
18 document, your Honor, on behalf of the accused ITAGAKI.

19 THE PRESIDENT: Well, I paused for a consider-
20 able length of time for an objection. None appeared
21 to be forthcoming, and of course I admitted it in the
22 usual way. However, make your objection.

23 MR. YAMADA: ITAGAKI explains clearly the
24 Tientsin question which has just been brought up.
25 In the latter part of this document there is an attack

1 on the part of the Lord Keeper of the Privy Seal
2 against ITAGAKI. The source of information contained
3 in this document is very obscure, unclear. It is my
4 submission that the prosecution cannot prove in the
5 manner which Mr. Comyns Carr is attempting to prove --
6 My further submission is that Mr. Carr -- what Mr.
7 Carr is attempting to prove cannot be done in the
8 manner he is attempting to do --

9 THE MONITOR: What Mr. Carr is attempting to
10 prove cannot be done through this document, in my sub-
11 mission.

12 That is all, your Honor.

13 THE PRESIDENT: The objection is overruled.
14 Proceed to read the document.

15 MR. COMYNS CARR (reading): In regard to the
16 Tientsin problem, generally speaking, the Premier agrees
17 with the views of the Minister of Foreign Affairs.
18 Therefore, although they wish to make firm restric-
19 tions from the 1st of July, the Central Government
20 has no control. Therefore, the units abroad do as they
21 wish and this situation is very troublesome. The strong
22 argument by the Consul in Tientsin and the comparative-
23 ly strong attitude taken by Minister KATO is somewhat
24 regrettable. At any rate, that is the situation.
25 The points in the Tientsin problem which Japan is con-

1 sidering are: first, the placing of Japanese in the
2 Industrial Bureau; second, the placing of Kempei
3 within the concessions; third, the demand of handing
4 over of 45,000,000 Yuan of legal tender to the pro-
5 visional government as a friendly gesture; fourth,
6 cooperation to preserve peace and order; and fifth,
7 the handing over of the criminals. The stupidity of
8 the War Minister seems to be the cause for all the
9 problems becoming extremely disorderly.

10 *****

11 "Furthermore, when the Emperor asked about
12 the Tientsin Incident, the War Minister said: "The
13 reason why the Army requested the surrender of the
14 45,000,000 Yuan in the British Concession was to main-
15 tain the currency exchange." The Emperor asked:
16 "Is that sufficient?" The War Minister said: "No,
17 it isn't!" The Emperor was shocked and said: "That
18 is very bad thinking on your part," and rebuked him.
19 The Lord Keeper of the Privy Seal said: "The Army is
20 confused and everything is lost." He considered it
21 a tragedy and even lamented to the extent that the
22 Army was going to destroy the nation."

23
24 THE PRESIDENT: The number of that document
25 is exhibit 3804A.

(Whereupon, the document above re-

ferred to was marked prosecution exhibit
3804-A and received in evidence.)

MR. COMYNS CARR: I tender in evidence IPS
document 3150-332-B in contradiction of ITAGAKI's testi-
mony at page 30,509, line 12, to page 30,510, line 3,
in which he denied that in a conference with the Emper-
or shortly prior to the 7th day of July 1939 regard-
ing the sending of General TERACHI to Germany that the
Emperor charged ITAGAKI with falsely reporting that
the Foreign Minister was in favor of a military alli-
ance.

THE PRESIDENT: If there is an objection we
will hear it in the morning.

We will adjourn until half-past nine.

(Whereupon, at 1600, an adjourn-
ment was taken until Wednesday, 21 January 1948,
at 0930.)

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